



# Local Government and Elections (Wales) Act 2021

2021 asc 1

VALID FROM 20/03/2021

## PART 6

### PERFORMANCE AND GOVERNANCE OF PRINCIPAL COUNCILS

#### CHAPTER 1

##### PERFORMANCE, PERFORMANCE ASSESSMENTS AND INTERVENTION

VALID FROM 01/04/2021

#### *Performance*

#### **89 Duty of principal council to keep its performance under review**

- (1) A principal council must keep under review the extent to which—
  - (a) it is exercising its functions effectively,
  - (b) it is using its resources economically, efficiently and effectively, and
  - (c) its governance is effective for securing the matters set out in paragraphs (a) and (b).
- (2) In this Chapter, the matters set out in paragraphs (a) to (c) of subsection (1) are referred to as “the performance requirements”.
- (3) A principal council must have regard to any guidance issued by the Welsh Ministers about—

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- (a) the performance requirements;
- (b) the exercise of its functions under this Chapter.

## **90 Duty to consult local people etc. on performance**

A principal council must from time to time, and at least once in each financial year, consult the following about the extent to which the council is meeting the performance requirements—

- (a) local people,
- (b) other persons carrying on a business in the council's area,
- (c) the staff of the council, and
- (d) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) by the council.

VALID FROM 01/04/2021

### *Self-assessments of performance*

## **91 Duty of principal council to report on its performance**

- (1) A principal council must, in respect of each financial year, make a report setting out its conclusions as to the extent to which it met the performance requirements during that financial year.
- (2) In this section, a report under subsection (1) is referred to as a “self-assessment report”.
- (3) A principal council's self-assessment report must set out any actions the council intends to take, and any actions it has already taken, with a view to increasing the extent to which it will meet the performance requirements in the financial year following the financial year to which the report relates.
- (4) A self-assessment report (other than a principal council's first self-assessment report) must include the council's conclusions as to the extent to which any actions included by virtue of subsection (3) in the council's preceding report increased the extent to which the council met the performance requirements in the financial year to which the self-assessment report relates.
- (5) In reaching the conclusions in its self-assessment report a council must take into account the views of the persons mentioned in paragraphs (a) to (d) of section 90 (whether those views were obtained under section 90 or otherwise) about the extent to which the council met the performance requirements during the financial year to which the report relates.
- (6) The council must make a draft of its self-assessment report available to its governance and audit committee.
- (7) The governance and audit committee must review the draft report and may make recommendations for changes to the conclusions, or to anything included by virtue of subsection (3), in the draft.

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- (8) If the council does not make a change recommended by the governance and audit committee under subsection (7), the council must set out in the report the recommendation and the reasons why it did not make the change.
- (9) The council must make a self-assessment report in respect of a financial year as soon as reasonably practicable after the end of that financial year.
- (10) Before the end of the period of four weeks beginning with the day on which the council makes the report the council must—
  - (a) publish the report,
  - (b) make the report available to the council's governance and audit committee, and
  - (c) send the report to—
    - (i) the Auditor General for Wales,
    - (ii) Her Majesty's Chief Inspector of Education and Training in Wales, and
    - (iii) the Welsh Ministers.
- (11) A council may publish its self-assessment report in respect of a financial year and its report under paragraph 1 of Schedule 1 to the Well-being of Future Generations (Wales) Act 2015 (anaw 2) (progress in meeting well-being objectives) in respect of the same financial year in the same document.

### *Panel assessments of performance*

VALID FROM 05/05/2022

#### **92 Duty of principal council to arrange panel performance assessment**

- (1) A principal council must make arrangements so that, at least once during the period between two consecutive ordinary elections of councillors to the council, a panel appointed by the council assesses the extent to which the council is meeting the performance requirements.
- (2) In this section, an assessment under subsection (1) is referred to as a “panel performance assessment”.
- (3) In carrying out a panel performance assessment in respect of a council, a panel must consult the following about the extent to which the council is meeting the performance requirements—
  - (a) local people,
  - (b) other persons carrying on a business in the council's area,
  - (c) the staff of the council, and
  - (d) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) by the council.
- (4) Following a panel performance assessment a panel must make a report setting out—
  - (a) its conclusions as to the extent to which the council is meeting the performance requirements;

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- (b) any actions the panel recommends that the council take in order to increase the extent to which it meets the performance requirements.
- (5) As soon as reasonably practicable after making the report the panel must send it to—
  - (a) the council,
  - (b) the Auditor General for Wales,
  - (c) Her Majesty's Chief Inspector of Education and Training in Wales, and
  - (d) the Welsh Ministers.
- (6) As soon as reasonably practicable after receiving the report from the panel, the council must—
  - (a) make the report available to the council's governance and audit committee, and
  - (b) publish the report.
- (7) Arrangements under subsection (1) must enable the principal council to publish at least one report before the day which is six months before the day on which the next ordinary election of councillors to the council is due to take place.
- (8) In this section, a reference to a panel is a reference to the members of that panel acting jointly; accordingly, a function expressed as a function of a panel is a function of each member of the panel that may only be exercised jointly with the other members.

VALID FROM 05/05/2022

**93 Duty of principal council to respond to report of panel performance assessment**

- (1) A principal council must prepare a response to each report made under section 92(4) in respect of the council.
- (2) The response must state—
  - (a) the extent to which the council accepts the conclusions in the report as to the extent to which the council is meeting the performance requirements,
  - (b) the extent to which the council intends to follow any recommendations in the report, and
  - (c) any actions the council intends to take to increase the extent to which it meets the performance requirements.
- (3) The council must make a draft of the response available to its governance and audit committee.
- (4) The governance and audit committee must review the draft response and may make recommendations for changes to the statements made in the draft under subsection (2).
- (5) If the council does not make a change recommended by the governance and audit committee under subsection (4), the council must set out, in the response, the recommendation and the reasons why it did not make the change.

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- (6) As soon as reasonably practicable after finalising the response the council must—
- (a) publish the response, and
  - (b) send the response to—
    - (i) the members of the panel,
    - (ii) the Auditor General for Wales,
    - (iii) Her Majesty's Chief Inspector of Education and Training in Wales, and
    - (iv) the Welsh Ministers.
- (7) Arrangements under section 92(1) must enable the principal council to publish at least one response to a report before the day which is four months before the day on which the next ordinary election of councillors to the council is due to take place.

#### **94 Panel performance assessments: supplementary regulations**

- (1) The Welsh Ministers may by regulations make provision for and in connection with the appointment by principal councils of panels under section 92(1).
- (2) The regulations may, in particular, include provision about—
- (a) the appointment of members of a panel (including the number, and any limit on the number, of members who may or must be appointed, and any conditions for appointment);
  - (b) the payment of fees to or in relation to members of a panel.

VALID FROM 01/04/2021

#### *Special inspections by Auditor General for Wales*

#### **95 Power of Auditor General to carry out a special inspection**

- (1) If the Auditor General for Wales (“the Auditor General”) considers that a principal council is not, or may not be, meeting the performance requirements, the Auditor General may carry out an inspection in order to assess the extent to which the council is meeting those requirements.
- (2) In this Chapter, an inspection under subsection (1) is referred to as a “special inspection”.
- (3) The Welsh Ministers may request the Auditor General to consider whether—
- (a) a particular principal council is not, or may not be, meeting the performance requirements, and
  - (b) to carry out a special inspection.
- (4) Before determining whether to carry out a special inspection of a principal council, the Auditor General must consult the Welsh Ministers, unless the Welsh Ministers made a request under subsection (3) in relation to the council.
- (5) Before carrying out a special inspection of a principal council the Auditor General must give notice in writing to the council specifying—

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- (a) the Auditor General's reasons for considering that the council is not or may not be meeting the performance requirements, and
  - (b) the matters that the Auditor General intends to inspect (but the Auditor General is not restricted to inspecting only the matters specified in the notice).
- (6) Following a special inspection of a council the Auditor General must make a report setting out—
- (a) the Auditor General's conclusions as to the extent to which the council is meeting the performance requirements, and
  - (b) any actions which the Auditor General recommends that the council or the Welsh Ministers take for the purposes of—
    - (i) increasing the extent to which the council meets the performance requirements;
    - (ii) improving the effectiveness of local government for the area of the council.
- (7) As soon as reasonably practicable the Auditor General must—
- (a) publish the report, and
  - (b) send the report to—
    - (i) the council,
    - (ii) Her Majesty's Chief Inspector of Education and Training in Wales, and
    - (iii) the Welsh Ministers.
- (8) As soon as reasonably practicable after receiving the report from the Auditor General, the council must make it available to its governance and audit committee.
- (9) If a report deals with the administration of housing benefit by the council, the Auditor General may send the report to the Secretary of State.

**96 Duty of principal council to respond to Auditor General's recommendations**

- (1) If a report made by the Auditor General under section 95(6) contains recommendations under section 95(6)(b) for action to be taken by a principal council, the council must prepare a response to the recommendations.
- (2) The response must state what action, if any, the council intends to take in response to the recommendations.
- (3) The council must make a draft of the response available to its governance and audit committee.
- (4) The governance and audit committee must review the draft response and may make recommendations for changes to the statement made in the draft under subsection (2).
- (5) If the council does not make a change recommended by the governance and audit committee under subsection (4), the council must set out, in the response, the recommendation and the reasons why it did not make the change.
- (6) The council must send the response to the Auditor General before the end of—

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- (a) the period of 30 days beginning with the day on which the council receives the Auditor General's report, or
  - (b) any longer period which the Auditor General specifies in writing.
- (7) As soon as reasonably practicable after sending the response to the Auditor General the council must—
- (a) publish the response, and
  - (b) send the response to—
    - (i) Her Majesty's Chief Inspector of Education and Training in Wales, and
    - (ii) the Welsh Ministers.

#### **97 Duty of the Welsh Ministers to respond to Auditor General's recommendations**

- (1) If a report made by the Auditor General under section 95(6) contains recommendations under section 95(6)(b) for action to be taken by the Welsh Ministers, the Welsh Ministers must prepare a response to the recommendations.
- (2) As soon as reasonably practicable the Welsh Ministers must—
- (a) publish the response, and
  - (b) send the response to—
    - (i) the Auditor General,
    - (ii) the principal council to which the Auditor General's report relates, and
    - (iii) Her Majesty's Chief Inspector of Education and Training in Wales.

#### **98 Auditor General's powers of entry and inspection etc.**

- (1) An inspector may at any reasonable time enter any premises of a principal council and do anything that the inspector considers necessary for the purposes of a special inspection of that council, including inspecting a document held by the council.
- (2) An inspector may require a principal council to provide the inspector with any of the following that the inspector considers necessary for the purposes of a special inspection of that council—
- (a) a document held by the council;
  - (b) facilities and assistance.
- (3) If an inspector considers a person may be able to provide information, an explanation or a document that the inspector considers necessary for the purposes of a special inspection, the inspector may require that person to attend before the inspector at any reasonable time to provide the information, explanation or document.
- (4) An inspector may—
- (a) copy a document inspected under subsection (1) or provided under subsection (2)(a) or (3);
  - (b) require a principal council to provide the inspector with a legible copy, including a legible electronic copy, of a document inspected under subsection (1) or provided under subsection (2)(a);



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- (c) retain a document inspected under subsection (1) or provided under subsection (2)(a) or (3), but only for as long as is necessary for the purposes of the special inspection.

- (5) In this section and sections 99 and 100, “inspector” means the Auditor General for Wales or a person exercising a function of the Auditor General for Wales under this Chapter by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013 (anaw 3).

## **99 Auditor General's powers of entry and inspection etc.: notice and evidence of identity**

- (1) An inspector may enter the premises of a principal council in exercise of the powers under section 98(1) (powers to enter council premises and do things for the purposes of a special inspection) only if—
  - (a) an inspector has given notice in writing to the council, and
  - (b) there are at least three working days between the day on which the inspector gives the notice and the day on which the inspector enters the premises.
- (2) An inspector may exercise the powers under section 98(2) (powers to require documents, facilities and assistance) only if—
  - (a) an inspector has given notice in writing to the council, and
  - (b) there are at least three working days between the day on which the inspector gives the notice and the day on which the council is required to provide the document, facilities or assistance.
- (3) The requirements in subsections (1) and (2) do not apply if an inspector considers that giving notice to a principal council would, or would be likely to, prejudice a special inspection of that council.
- (4) An inspector may exercise the power under section 98(3) (power to require persons to attend before an inspector) only if—
  - (a) an inspector has given notice in writing to the person, and
  - (b) between the day on which the inspector gives the notice and the day on which the person is required to attend before the inspector there are at least—
    - (i) three working days if the person is a member of a principal council or a member of the staff of a principal council, or
    - (ii) seven working days in any other case.
- (5) Notice under subsection (1) or (2) to a principal council may be given by—
  - (a) leaving the notice at the principal office of the council;
  - (b) sending the notice by first class post, or by an alternative service which provides for delivery no later than the next working day, to the principal office of the council;
  - (c) sending the notice to any e-mail address which the council has specified to the Auditor General for Wales for the purposes of receiving notices under this section.
- (6) Notice under subsection (4) to a member of a principal council or a member of the staff of a principal council may be given by—
  - (a) leaving the notice at the principal office of the council;



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- (b) sending the notice by first class post, or by an alternative service which provides for delivery no later than the next working day, to the principal office of the council;
  - (c) handing the notice to the person;
  - (d) leaving the notice at the last known residence of the person;
  - (e) sending the notice by first class post, or by an alternative service which provides for delivery no later than the next working day, to the last known residence of the person.
- (7) Notice under subsection (4) to a person other than a member of a principal council or a member of the staff of a principal council may be given by—
- (a) handing the notice to the person;
  - (b) leaving the notice at the last known residence or place of business of the person;
  - (c) sending the notice by first class post, or by an alternative service which provides for delivery no later than the next working day, to the last known residence or place of business of the person.
- (8) An inspector must produce evidence that they are an inspector if requested to do so by a person in respect of whom the inspector attempts to exercise a power under section 98 (and if the inspector does not produce that evidence the power is not exercisable).

#### **100 Auditor General's powers of entry and inspection etc.: offences**

- (1) A person who without reasonable excuse fails to comply with a requirement imposed under section 98(2), (3) or (4)(b) commits an offence.
- (2) A person who intentionally obstructs an inspector exercising or attempting to exercise a power under section 98(1) or (4)(a) or (c) commits an offence.
- (3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) The reasonable expenses incurred by an inspector in proceedings for an offence under subsection (1) or (2) alleged to have been committed in relation to a special inspection are, so far as not recoverable from any other source, recoverable from the principal council to which the special inspection relates.

#### **101 Auditor General's fees**

- (1) The Wales Audit Office must prescribe a scale of fees in respect of special inspections.
- (2) A principal council in respect of which a special inspection is carried out must, subject to subsection (3), pay to the Wales Audit Office, in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013 (anaw 3), the fee payable under the scale prescribed under subsection (1).
- (3) If it appears to the Wales Audit Office that the work involved in a particular special inspection was substantially more or less than that envisaged by the scale prescribed under subsection (1), the Wales Audit Office may charge a fee which is larger or smaller than that mentioned in subsection (2).

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- (4) But a fee charged under this section may not exceed the full cost of carrying out the activity to which it relates.
- (5) Before prescribing a scale of fees under this section the Wales Audit Office must consult—
  - (a) the Welsh Ministers, and
  - (b) such persons representing principal councils as the Wales Audit Office considers appropriate.

VALID FROM 01/04/2021

*Support and assistance with improving performance*

**102 Support and assistance by the Welsh Ministers**

- (1) The Welsh Ministers may provide a principal council with such support and assistance as the Welsh Ministers consider appropriate to increase the extent to which the council meets the performance requirements.
- (2) A principal council may ask the Welsh Ministers to consider providing the council with support and assistance under subsection (1).
- (3) Before providing support and assistance under subsection (1) to a principal council, the Welsh Ministers must consult the council about the support and assistance they intend to provide.
- (4) The function in subsection (1) includes power to—
  - (a) enter into a contract or other agreement or arrangement with any person;
  - (b) cooperate with, or facilitate or co-ordinate the activities of, any person;
  - (c) provide staff, goods, services and accommodation to any person.

**103 Direction to a principal council to provide support and assistance**

- (1) The Welsh Ministers may direct a principal council to provide another principal council (“the supported council”) with such support and assistance as the Welsh Ministers consider appropriate to increase the extent to which the supported council meets the performance requirements.
- (2) The support and assistance to be provided must be specified in the direction.
- (3) But before giving a direction under this section the Welsh Ministers must consult both councils.
- (4) The support and assistance which the Welsh Ministers may direct a principal council to provide include—
  - (a) entering into a contract or other agreement or arrangement with the supported council (and the direction may specify its terms and conditions);
  - (b) co-operating with, or facilitating or co-ordinating the activities of, the supported council;

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- (c) providing staff, goods, services and accommodation to the supported council.

VALID FROM 01/04/2021

### *Intervention by the Welsh Ministers*

#### **104 Powers of the Welsh Ministers to intervene**

- (1) The Welsh Ministers may give an intervention direction to or in relation to a principal council if they consider that—
  - (a) it is likely that the council is not meeting the performance requirements, or
  - (b) the council is not meeting the performance requirements.
- (2) But before giving an intervention direction the Welsh Ministers must—
  - (a) provide or attempt to provide support and assistance to the council (which may include directing another council under section 103),
  - (b) consult such persons as the Welsh Ministers consider appropriate, and
  - (c) notify the council that they intend to give the direction.
- (3) A requirement in paragraph (a), (b) or (c) of subsection (2) does not apply if the Welsh Ministers consider that there is an urgent need to give the direction and the urgency is such that it would be appropriate to do so without taking the step set out in the paragraph.
- (4) In this section, “intervention direction” means a direction under section 105, 106 or 107; and those sections are subject to subsections (1) to (3) of this section.

#### **105 Direction to co-operate with provision of support and assistance**

- (1) The Welsh Ministers may direct a principal council (“the supported council”) to co-operate with—
  - (a) the Welsh Ministers;
  - (b) a principal council acting under a direction under section 103,for the purposes of enabling support and assistance to be provided to the supported council.
- (2) When a direction under this section has effect the supported council must provide a person referred to in subsection (1)(a) or (b) with the following things, to the extent the person considers necessary for the purposes of providing support and assistance to the council—
  - (a) access to its premises;
  - (b) access to documents held by it (and the supported council must allow the person to take copies of those documents);
  - (c) other information;
  - (d) facilities and assistance.
- (3) But subsection (2) does not require a council to provide, or provide access to, anything that the council is prohibited from providing or providing access to by any enactment or rule of law.

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- (4) A direction under this section may require a supported council to co-operate with a person referred to in subsection (1)(a) or (b) by taking steps specified in the direction, including—
- (a) entering into a contract or other agreement or arrangement (and the direction may specify its terms and conditions) with that person;
  - (b) allowing that person to facilitate or co-ordinate any of the council's activities.
- (5) In subsection (1)(a) and (b), the references to the Welsh Ministers and a principal council acting under a direction under section 103 include a person acting on behalf of, assisting or authorised by them.

#### **106 Direction to take or not to take etc. a specified step**

- (1) The Welsh Ministers may direct a principal council to—
- (a) take a specified step (and the direction may specify a deadline by which the step must be taken);
  - (b) not take a specified step;
  - (c) cease taking a specified step (and the direction may specify a deadline by which the council must cease taking the step).
- (2) The steps which a direction may require a council to take include entering into a contract or other agreement or arrangement—
- (a) with a specified person;
  - (b) with a person of a specified description;
  - (c) for specified purposes;
  - (d) on specified terms and conditions.
- (3) In this section “specified” means specified in the direction.

#### **107 Direction that a function be performed by the Welsh Ministers or their nominee**

- (1) The Welsh Ministers may direct that a specified function of a principal council be exercised by the Welsh Ministers or a person nominated by them.
- (2) When a direction under this section has effect the principal council must—
- (a) comply with the instructions of the Welsh Ministers or their nominee in relation to the exercise of the specified function;
  - (b) provide the Welsh Ministers or their nominee with the following things, to the extent the Welsh Ministers consider, or their nominee considers, necessary for the purposes of exercising the specified function—
    - (i) access to its premises;
    - (ii) access to documents held by it (and the principal council must allow the Welsh Ministers or their nominee to take copies of those documents);
    - (iii) other information;
    - (iv) facilities and assistance;
  - (c) take such steps as may be specified.

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- (3) The Welsh Ministers may by regulations apply an enactment with modifications, or disapply an enactment, in relation to functions exercisable by the Welsh Ministers or their nominee by virtue of a direction within this section.
- (4) In subsection (2) the references to the Welsh Ministers and their nominee include a person acting on behalf of, assisting or authorised by the Welsh Ministers or their nominee.
- (5) In this section “specified” means specified in the direction.

VALID FROM 01/04/2021

### *Supplementary*

#### **108 Exercise of functions under this Chapter**

- (1) A function conferred on a principal council under or by virtue of this Chapter (other than functions expressly conferred on a governance and audit committee) may be exercised by the council or by its executive, as the council may determine.
- (2) If a principal council determines that a function mentioned in subsection (4) is to be exercised by the council, section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply to that function.
- (3) If a principal council determines that a function mentioned in subsection (4) is to be exercised by the executive, section 14 or (as the case may be) 15 of the 2000 Act (discharge of functions by executives) does not apply in relation to that function.
- (4) The functions are—
  - (a) section 91(1) (self-assessment report);
  - (b) section 91(8) (response to recommendations about report);
  - (c) section 92(1) (appointment of performance assessment panel);
  - (d) section 93(1) (response to report of panel performance assessment);
  - (e) section 93(5) (response to recommendations about response to report of panel);
  - (f) section 96(1) (response to recommendations from the Auditor General for Wales);
  - (g) section 96(5) (response to recommendations about response to the Auditor General for Wales);
  - (h) section 102(2) (request to the Welsh Ministers for support and assistance).

#### **109 Power of the Welsh Ministers to add to list of persons to whom reports etc. must be sent**

The Welsh Ministers may by regulations amend the following provisions to add a person to the lists in those provisions—

- (a) section 91(10)(c) (self-assessment report);
- (b) section 92(5) (report of panel performance assessment);
- (c) section 93(6)(b) (response to report of panel performance assessment);

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- (d) section 95(7)(b) (report of special inspection);
- (e) section 96(7)(b) (response by principal council to recommendations from the Auditor General for Wales);
- (f) section 97(2)(b) (response by Welsh Ministers to recommendations from the Auditor General for Wales).

### **110 Power of the Welsh Ministers to amend etc. enactments and confer new powers**

- (1) If the Welsh Ministers consider that an enactment (other than a provision of this Chapter) prevents or obstructs a principal council from complying with this Chapter, the Welsh Ministers may by regulations amend, modify, repeal, revoke or disapply that enactment in relation to—
  - (a) all principal councils,
  - (b) particular principal councils, or
  - (c) particular descriptions of principal council.
- (2) The Welsh Ministers may by regulations make provision conferring on—
  - (a) all principal councils,
  - (b) particular principal councils, or
  - (c) particular descriptions of principal council,
 any power which the Welsh Ministers consider necessary or expedient to permit or facilitate compliance with this Chapter by a principal council.
- (3) Regulations under subsection (2) may impose conditions on the exercise of any power conferred by the regulations (including conditions about consultation or approval).

### **111 Guidance**

- (1) A person who has functions under or by virtue of this Chapter must have regard to any guidance issued by the Welsh Ministers about the exercise of those functions.
- (2) In exercising a function under this Chapter which relates to an assessment of the extent to which a principal council is meeting the performance requirements, a person must have regard to any guidance issued by the Welsh Ministers about the performance requirements.
- (3) The requirements of this section do not apply to—
  - (a) the Auditor General for Wales or a person exercising a function of the Auditor General for Wales under this Chapter (by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013 (anaw 3));
  - (b) a principal council (see section 89(3) which deals with guidance to principal councils).

### **112 Interpretation**

In this Chapter—

- “document” (“*dogfen*”) includes information recorded in any form;
- “performance requirements” (“*gofynion perfformiad*”) has the meaning given in section 89(2);



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“special inspection” (“*arolygiad arbennig*”) has the meaning given in section 95.

VALID FROM 01/04/2021

*Amendment of other enactments*

**113 Disapplication of the 2009 Measure in relation to principal councils and repeal of provisions about coordination of audit**

In the 2009 Measure omit—

- (a) section 1(a) (meaning of “Welsh improvement authority”);
- (b) section 4(3)(a) (aspects of improvement);
- (c) section 11(1)(b) and (2) (meaning of “powers of collaboration”);
- (d) section 16(2)(a) and (b) (meaning of “relevant regulators” and “relevant functions”);
- (e) section 22(5) (special inspection reports relating to housing benefit);
- (f) section 23 (coordination of audit);
- (g) section 25(4)(d) (statement of practice by the Auditor General for Wales);
- (h) section 33 (information sharing); and in consequence, in section 159 of this Act omit subsection (10).

**114 Amendment of the Well-being of Future Generations (Wales) Act 2015**

In paragraph 1 of Schedule 1 to the Well-being of Future Generations (Wales) Act 2015 (anaw 2), after sub-paragraph (2) insert—

“(2A) In respect of any financial year, a local authority may publish its report under this paragraph and its report under section 91(1) of the Local Government and Elections (Wales) Act 2021 (self-assessment of performance) in the same document.”

VALID FROM 01/04/2021

*Governance and audit committees of principal councils*

**115 New name and functions of audit committees**

- (1) Section 81 of the 2011 Measure (local authorities to appoint audit committees) is amended as follows.
- (2) In subsection (1), for “(an “audit committee”)” substitute “ (a “governance and audit committee”) ”.
- (3) In paragraph (c) of subsection (1), after “internal control” insert “ , performance assessment ”.



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- (4) After paragraph (d) of subsection (1) insert—
- “(da) review and assess the authority's ability to handle complaints effectively,
  - (db) make reports and recommendations in relation to the authority's ability to handle complaints effectively.”.
- (5) After subsection (1) insert—
- “(1A) See Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2021 (performance and governance of principal councils) for further functions of governance and audit committees.”
- (6) Schedule 10 makes consequential amendments.

VALID FROM 05/05/2022

## CHAPTER 2

### GOVERNANCE AND AUDIT COMMITTEES: MEMBERSHIP AND PROCEEDINGS

#### **116 Membership of governance and audit committee**

- (1) Section 82 of the 2011 Measure (membership) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a) omit the words “at least”;
  - (b) for paragraph (b) substitute—
    - “(b) one-third of the members of that committee are lay persons;”.
- (3) After subsection (5) insert—
- “(5A) A governance and audit committee is to appoint—
- (a) a member of the committee as its chair (“the committee chair”), and
  - (b) a member of the committee as the deputy to the committee chair (“the deputy chair”).
- (5B) The member appointed as the committee chair must be a lay person.
- (5C) The member appointed as the deputy chair must not be a member of the local authority's executive or an assistant to its executive.”
- (4) Omit subsection (6).
- (5) In Schedule 10 to this Act (consequential amendments relating to governance and audit committees), omit paragraph 4(b)(ii) and (f).

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### **117 Meaning of lay person**

In section 87 of the 2011 Measure (interpretation), in subsection (2) omit the definition of “lay member” and insert—

““lay person” (“*lleygwr*”) means a person who—

- (a) is not a member or an officer of any local authority,
- (b) has not at any time in the period of twelve months ending with the date of that person's appointment been a member or an officer of any local authority, and
- (c) is not the spouse or civil partner of a member or an officer of any local authority;”.

### **118 Proceedings etc.**

(1) Section 83 of the 2011 Measure (proceedings) is amended as follows.

(2) For subsections (1) and (2) substitute—

“(1) A meeting of a governance and audit committee is to be chaired—

- (a) by the committee chair, or
- (b) if the committee chair is absent, by the deputy chair.

(2) If both the committee chair and the deputy chair are absent the committee may appoint a member of the committee who is not a member of the local authority's executive, or an assistant to its executive, to chair the meeting.”

(3) Omit subsection (8).

(4) In Schedule 6 to this Act (assistants to executives), omit paragraph 6(5).

(5) In Schedule 10 to this Act (consequential amendments relating to governance and audit committees), omit paragraph 5(a) and (b).

VALID FROM 01/04/2021

## **CHAPTER 3**

### **COORDINATION BETWEEN REGULATORS**

#### **119 Coordination between regulators**

(1) The Auditor General for Wales and the relevant regulators must have regard to the need for coordination in the exercise of their relevant functions.

(2) In respect of each financial year the Auditor General for Wales must produce a timetable in relation to each principal council which sets out the Auditor General's opinion as to the dates or periods in that year on or during which—

- (a) the relevant regulators should exercise their relevant functions in relation to the council, and
- (b) the Auditor General should exercise the Auditor General's relevant functions in relation to that council.

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- (3) Before producing a timetable under subsection (2) the Auditor General for Wales must consult the relevant regulators.
- (4) The duty under subsection (2) may be discharged by the production of a timetable which relates to more than one financial year.
- (5) The Auditor General for Wales and the relevant regulators, in exercising their relevant functions in relation to a principal council, must take all reasonable steps to adhere to the timetable produced in relation to that council under subsection (2).
- (6) The Auditor General for Wales must assist the relevant regulators to comply with their duties under subsections (1) and (5).
- (7) In this section, “relevant regulators” and “relevant functions” have the meaning given in section 120.

## 120 “Relevant regulators” and “relevant functions”

- (1) For the purposes of section 119 the relevant functions of the Auditor General for Wales are—
  - (a) auditing the accounts of a principal council under Chapter 1 of Part 2 of the Public Audit (Wales) Act 2004 (c. 23);
  - (b) undertaking a study under Chapter 2 of Part 2 of the Public Audit (Wales) Act 2004 in relation to a principal council;
  - (c) carrying out an examination of a principal council under section 15 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2).
- (2) For the purposes of section 119, a relevant regulator is a person mentioned in the first column of table 1 and their relevant functions are the functions specified in the second column.

TABLE 1

Relevant regulators	Relevant functions
Her Majesty's Chief Inspector of Education and Training in Wales	Functions under section 38 of the Education Act 1997 (c. 44) (inspection of education functions etc.)
The Welsh Ministers	Functions under section 149A and section 149B of the Social Services and Well-being (Wales) Act 2014 (anaw 4) (reviews etc. of the exercise of social services functions)

- (3) The Welsh Ministers may by regulations amend table 1 to—
  - (a) add an entry;
  - (b) amend an entry;
  - (c) omit an entry.
- (4) Before making regulations under subsection (3), the Welsh Ministers must consult—
  - (a) such persons representing principal councils as the Welsh Ministers consider appropriate;

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- (b) the Auditor General for Wales;
- (c) the person to whom a new or amended entry will relate.

**Status:**

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**Changes to legislation:**

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