



# Local Government (Wales) Measure 2011

## 2011 nawm 4

### PART 6 **W**

#### OVERVIEW AND SCRUTINY

### CHAPTER 1 **W**

#### OVERVIEW AND SCRUTINY COMMITTEES

##### *Joint overview and scrutiny committees*

### 58 **Joint overview and scrutiny committees** **W**

- (1) The Welsh Ministers may by regulations make provision under which any two or more local authorities may—
- (a) appoint a joint committee (a “joint overview and scrutiny committee”), and
  - (b) arrange for the committee to exercise any functions of making reports or recommendations about any matter which is not an excluded matter to—
    - (i) any of the local authorities appointing the committee, and
    - (ii) in the case of a local authority operating executive arrangements under Part 2 of the Local Government Act 2000, the local authority’s executive.
- (2) In subsection (1)(b) “excluded matter” means any matter with respect to which a crime and disorder committee could make a report or recommendations—
- (a) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
  - (b) by virtue of subsection (3)(a) of that section.
- (3) The provision that may be made in regulations under this section includes (but is not limited to)—

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- (a) provision for arrangements to be made only in prescribed circumstances, or subject to prescribed conditions or limitations;
  - (b) provision for the appointment of sub-committees of joint overview and scrutiny committees;
  - (c) in relation to joint overview and scrutiny committees (or sub-committees of such committees), provision applying, or corresponding to, any provision of—
    - (i) subsections (4) to (15A) and (18) of section 21 of the Local Government Act 2000,
    - (ii) sections 21A, 21B, 21D, 21F and 21G of that Act,
    - (iii) section 186 of, and Schedule 11 to, the National Health Service (Wales) Act 2006.
- (4) A local authority and a joint overview and scrutiny committee must, in exercising or deciding whether to exercise any function conferred on it by or under this section, have regard to guidance given by the Welsh Ministers.
- (5) In section 21 of the Local Government Act 2000 (overview and scrutiny committees), in subsection (2A)(e)—
- (a) after “committee” insert “—  
(i)”;
    - (ii) a joint overview and scrutiny committee within the meaning of section 58 of the Local Government (Wales) Measure 2011 appointed by two or more local authorities, one of which is the authority concerned”.
  - (b) after “concerned” insert “, or

#### *Powers of committees*

PROSPECTIVE

### **59 Scrutinising designated persons W**

- (1) Section 21 of the Local Government Act 2000 (overview and scrutiny committees) is amended as follows.
- (2) In subsection (2)(e), at the end insert “ (insofar as the committee is not, or committees are not, under a duty to do those things by virtue of subsection (2ZA)) ”.
- (3) After subsection (2) insert—
 

“(2ZA) Executive arrangements by a local authority in Wales must ensure that their overview and scrutiny committee is required (or their overview and scrutiny committees, and any joint overview and scrutiny committees, are required between them) to make reports or recommendations on matters which relate to designated persons and affect the authority's area or the inhabitants of that area.”.
- (4) In subsection (2A), after “(2)” insert “ or (2ZA) ”.
- (5) In subsection (13)—

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- (a) in paragraph (aa), omit the final “and”;
- (b) after paragraph (b) insert—
  - “(c) if it is a committee or sub-committee of a local authority in Wales may, in connection with making a report or recommendations of the kind referred to subsection (2ZA)—
    - (i) require a designated person to provide the committee or sub-committee with information, except information that relates to an excluded matter, and
    - (ii) require an officer, employee or other representative of a designated person to attend meetings of the committee, except in relation to an excluded matter.”.

- (6) After subsection (15) insert—

“(15A) It is the duty of a person to comply with the requirement mentioned in subsection (13)(c)(i) or (ii); but that does not require a designated person to provide information which is not reasonably required in connection with the making of the report or recommendations.”.

- (7) After subsection (17) insert—

“(18) In this section—

“designated person” means a person—

- (a) who is designated by the Welsh Ministers in accordance with section 21G, or
- (b) who falls within a category of person so designated;

“excluded matter” means any matter with respect to which a crime and disorder committee could make a report or recommendations—

- (a) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
- (b) by virtue of subsection (3)(a) of that section.”.

PROSPECTIVE

## 60 Notifying designated persons of report or recommendations **W**

After section 21E of the Local Government Act 2000 insert—

### “21F Wales: notifying designated body of report or recommendations

- (1) This section applies if an overview and scrutiny committee of a local authority in Wales, or a sub-committee of such a committee, makes a report or recommendations under section 21(2ZA).
- (2) The committee or sub-committee may—
  - (a) send a copy of the report or recommendations to a designated person, and

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- (b) request the designated person to have regard to the report or recommendations.
- (3) In sending a copy of the report or recommendations to the designated person, the committee or sub-committee—
  - (a) must exclude any confidential information, and
  - (b) may exclude any relevant exempt information.
- (4) If information is excluded under subsection (3), in producing the copy of the report or recommendations the committee or sub-committee—
  - (a) may replace so much of the report or recommendations as discloses the information with a summary which does not disclose that information, and
  - (b) must do so if, in consequence of excluding the information, the report or recommendations would be misleading or not reasonably comprehensible.
- (5) In this section—
  - “confidential information” has the meaning given by section 100A(3) of the Local Government Act 1972 (admission to meetings of principal councils);
  - “designated person” has the same meaning as in section 21;
  - “exempt information” has the meaning given by section 100I of that Act, and, in relation to any report or recommendations of a committee or joint committee which has functions under section 21(2) (f) of this Act, also includes information which is exempt information under section 186 of the National Health Service (Wales) Act 2006;
  - “relevant exempt information” means exempt information of a description specified in a resolution of the committee or sub-committee under section 100A(4) of the Local Government Act 1972 which applied to the proceedings, or part of the proceedings, at any meeting of the committee or sub-committee at which the report was, or recommendations were, considered.”.

## 61 Designated persons W

After section 21F of the Local Government Act 2000 insert—

### “21G Wales: designated persons

- (1) The Welsh Ministers may, by order, designate for the purposes of section 21—
  - (a) one or more persons, and
  - (b) one or more categories of person.
- (2) But—
  - (a) the designation of a person has effect only if that person meets the following conditions, and
  - (b) the designation of a category of persons has effect only if, and to the extent that, each person in that category meets the following conditions.

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- (3) Condition A is that the person provides the public, or a section of the public, with services, goods or facilities of any description (whether on payment or not).
- (4) Condition B is that the person—
  - (a) provides those services, goods or facilities in the exercise of functions of a public nature, or
  - (b) is wholly or partly funded by public money.
- (5) Condition C is that the person is not a local authority.”

#### Commencement Information

**II** S. 61 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(e)

### *Taking into account the views of the public*

## **62 Taking into account the views of the public** **W**

- (1) A local authority must make arrangements of the kind referred to in subsection (2) in relation to each relevant overview and scrutiny committee of the authority.
- (2) Those arrangements are arrangements that enable all persons who live or work in the local authority's area to bring to the attention of the relevant overview and scrutiny committee their views on any matter under consideration by the committee.
- (3) A relevant overview and scrutiny committee must, when exercising its functions, take into account any views brought to its attention in accordance with arrangements made under this section.
- (4) In complying with subsection (1), a local authority must have regard to guidance given by the Welsh Ministers.
- (5) In complying with subsection (3), a relevant overview and scrutiny committee must have regard to guidance given by the Welsh Ministers.
- (6) In this section—
  - “joint overview and scrutiny committee” (*“cyd-bwyllgor trosolwg a chraffu”*) has the same meaning as in section 21(2A) of the Local Government Act 2000;
  - “matter under consideration” (*“mater sy'n cael ei ystyried”*), in relation to a relevant overview and scrutiny committee, means a matter in respect of which the committee is exercising any function;
  - “relevant overview and scrutiny committee” (*“pwyllgor trosolwg a chraffu perthnasol”*), in relation to a local authority, means—
    - (a) an overview and scrutiny committee of the authority,
    - (b) a sub-committee of such a committee,
    - (c) a joint overview and scrutiny committee of the authority, or
    - (d) a sub-committee of such a joint committee.

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#### Commencement Information

**I2** S. 62 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(f)

### *Powers of councillors*

#### **63 Reference of matters to overview and scrutiny committee etc** W

- (1) Section 21A of the Local Government Act 2000 (reference of matters to overview and scrutiny committee etc) is amended as follows.
- (2) In subsection (1)(c) omit “in the case of a local authority in England,”.
- (3) In subsection (3)—
  - (a) after “issued” insert “ (in the case of a local authority in England) ”;
  - (b) after “Secretary of State” insert “ or (in the case of a local authority in Wales) by the Welsh Ministers ”.
- (4) In subsection (6)(a)—
  - (a) after “2007” insert “ or section 56 of the Local Government (Wales) Measure 2011 ”.
  - (b) omit “in England”.
- (5) In subsection (10), after “local authority” insert “ in England ”.
- (6) After subsection (11) insert—
 

“(12) In this section “local government matter”, in relation to a member of a local authority in Wales, means a matter which is not an excluded matter and which—

  - (a) relates to the discharge of any function of the authority, or
  - (b) affects all or part of the electoral area for which the member is elected or any person who lives or works in that area.

(13) In subsection (12) “excluded matter” means any matter which is—

  - (a) a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
  - (b) a matter of any description specified in an order made by the Welsh Ministers for the purposes of this section.”.

#### Commencement Information

**I3** S. 63 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(g)

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### *Duty to respond to overview and scrutiny committee*

#### **64 Duty to respond to overview and scrutiny committee** **W**

In section 21B of the Local Government Act 2000 (duty of authority or executive to respond to overview and scrutiny committee), in subsection (1) omit “in England”.

##### **Commencement Information**

**I4** S. 64 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(g)

### *Provision consequential on sections 63 and 64*

#### **65 Provision consequential on sections 63 and 64** **W**

- (1) The Local Government Act 2000 is amended as follows.
- (2) In section 21D (publication etc of reports, recommendations and responses: confidential and exempt information), in subsection (6) in the definition of “exempt information”, after “2006” insert “ or section 186 of the National Health Service (Wales) Act 2006 ”.
- (3) In section 22 (access to information etc), in subsection (12A)—
  - (a) after “State” insert “ (in relation to local authorities in England), or the Welsh Ministers (in relation to local authorities in Wales), ”;
  - (b) in paragraph (a), omit “in England”.

##### **Commencement Information**

**I5** S. 65 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(g)

### *Appointing persons to chair committees*

#### **66 Provision in standing orders about appointment of persons to chair committees** **W**

- (1) The standing orders of a local authority must make provision (“appointment provision”) for the appointment of the persons who are to chair the local authority's overview and scrutiny committee or committees (“committee chairs”).
- (2) The appointment provision must comply with—
  - (a) section 67,
  - (b) section 68, and
  - (c) section 69 (and accordingly with sections 70 to 73 or with section 74).
- (3) Appointment provision must not prevent a person from being appointed as a committee chair because the person—
  - (a) is, or is not, a member of any political group, or
  - (b) is, or is not, a member of a particular political group.

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**Commencement Information**

**I6** S. 66 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

**67 When appointments to be made by committee** **W**

- (1) The appointment provision must provide for the appointment of committee chairs in cases A to C set out in this section.
- (2) The appointment provision must provide that, in those cases, the committee chair, or each committee chair, is to be appointed by the committee which that person is to chair.
- (3) Case A is where there are no political groups on the authority.
- (4) Case B is where there is only one political group on the authority.
- (5) Case C is where—
  - (a) there are two (but not more) political groups on the authority,
  - (b) the authority has only one overview and scrutiny committee, and
  - (c) the authority's executive—
    - (i) includes members of both political groups, or
    - (ii) does not include any member of either political group.

**Commencement Information**

**I7** S. 67 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

**68 When appointments to be made by non-executive group** **W**

- (1) The appointment provision must provide for the appointment of the committee chair in the case set out in this section.
- (2) The appointment provision must provide that, in that case, the committee chair is to be appointed by the non-executive political group.
- (3) That case is where—
  - (a) there are two (but not more) political groups on the authority,
  - (b) the authority has only one overview and scrutiny committee, and
  - (c) the authority's executive—
    - (i) includes one or more members of one political group, but
    - (ii) does not include any member of the other political group.
- (4) In this section “non-executive political group” means the group described in subsection (3)(c)(ii).

**Commencement Information**

**I8** S. 68 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)



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## 69 How appointments to be made in other cases **W**

- (1) The appointment provision must provide for the appointment of committee chairs in cases other than those set out in section 67 and 68.
- (2) The appointment provision applicable in the other cases must comply with—
  - (a) sections 70 to 73, or
  - (b) section 74.

### Commencement Information

**I9** S. 69 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

## 70 Appointments to be made by political groups **W**

- (1) A local authority's appointment provision complies with this section if it provides—
  - (a) for the authority to be required, on each occasion when all of its committee chairs fall to be appointed, to make a determination under subsection (2) of which political groups on the authority are entitled to make which appointments, and
  - (b) for the groups to be able to make the appointments accordingly.
- (2) The determination referred to in subsection (1) is a determination which, so far as reasonably practicable, gives effect to the following principles.
- (3) The first principle is that—
  - (a) if there is only one executive group, the proportion of committee chairs which the executive group is entitled to appoint corresponds to the proportion of members of the authority who are in the group;
  - (b) if there are two or more executive groups, the proportion of committee chairs which the executive groups are (when taken together) entitled to appoint corresponds to the proportion of members of the authority who are members of those groups (when taken together).
- (4) The second principle is that—
  - (a) if there is only one opposition group, the group is entitled to appoint all the opposition allocation of committee chairs, or
  - (b) if there are two or more opposition groups—
    - (i) the opposition groups are (when taken together) entitled to appoint all the opposition allocation of committee chairs, and
    - (ii) the proportion of the opposition allocation of committee chairs which each opposition group (a “relevant group”) is entitled to appoint corresponds to the proportion of members of the opposition groups who are members of the relevant group.
- (5) In giving effect to the principles in subsections (3)(a) and (b) and (4)(b)(ii), the appointment provision—
  - (a) must provide for a political group's entitlement to appoint committee chairs to be an entitlement to appoint a whole number of committee chairs, and
  - (b) accordingly, must provide for an entitlement to be rounded off to the nearest whole number if it would not otherwise be a whole number.

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- (6) In giving effect to the principles in subsection (3)(a) and (b), the appointment provision made in accordance with subsection (5)(b) must provide for the entitlement of the executive group, or executive groups, to be rounded down to the nearest whole number.
- (7) For the purposes of subsections (5) and (6), zero is to be taken to be a whole number.
- (8) In this section—
- “executive allocation of committee chairs” (“*dyraniad y weithrediaeth o gadeiryddion pwyllgor*”) means the number of committee chairs which—
- (a) the executive group is entitled to appoint in accordance with subsection (3)(a), or
- (b) the executive groups are entitled to appoint in accordance with subsection (3)(b);
- “opposition allocation of committee chairs” (“*dyraniad yr wrthblaid o gadeiryddion pwyllgor*”) means the number of committee chairs remaining after deducting the executive allocation of committee chairs.

**Commencement Information**

**I10** S. 70 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

**71 Failure to make appointments in accordance with section 70** W

- (1) A local authority's appointment provision complies with this section if it provides—
- (a) for the authority to be required, on each occasion when some or all of the committee chairs (“the unappointed chairs”) which fall to be appointed in accordance with appointment provision that complies with section 70 are not so appointed, to make a determination under subsection (2) of how the unappointed chairs are to be appointed, and
- (b) for the unappointed chairs to be appointed accordingly.
- (2) The determination referred to in subsection (1) is a determination which, so far as reasonably practicable, gives effect to the following principles.
- (3) The first principle is that no executive group is entitled to appoint any of the unappointed chairs.
- (4) The second principle is that—
- (a) if there is only one opposition group and it has made all of its initial appointments, or
- (b) if there are two or more opposition groups and one or more of them have made all of their initial appointments,
- each appointing group is entitled to appoint the proportion of unappointed committee chairs which corresponds to the proportion of completed initial appointments which were appointments made by that group.
- (5) The third principle is that if—
- (a) there are unappointed committee chairs, but
- (b) none of them fall to be appointed as mentioned in subsection (4),

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each unappointed committee chair is to be appointed by the committee which that person is to chair.

- (6) The fourth principle is that if—
- (a) one or more unappointed committee chairs fall to be appointed as mentioned in subsection (4), but
  - (b) one or more of them are not so appointed,

each committee chair not so appointed is to be appointed by the committee which that person is to chair.

- (7) In this section—

“appointing group” (“*grŵp penodi*”) means an opposition group which makes all of its initial appointments;

“completed initial appointment” (“*penodiad cychwynnol gorffenedig*”) means an initial appointment that is made;

“initial appointment” (“*penodiad cychwynnol*”), in relation to a political group, means an appointment which the group is entitled to make in accordance with appointment provision that complies with section 70.

#### Commencement Information

**III** S. 71 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

## 72 Changes in composition of executive **W**

- (1) A local authority's appointment provision complies with this section if it provides for the case set out in subsection (2) by means of provision of the kind referred to in subsections (3) and (4).
- (2) That case is where either or both of the following happen—
  - (a) a political group ceases to be an executive group;
  - (b) a political group begins to be an executive group;and it is not the case set out in section 70.
- (3) The appointment provision must provide for the making of—
  - (a) a section 70 determination (as if all of the local authority's committee chairs had fallen to be appointed), and
  - (b) a determination of whether there is a difference between—
    - (i) the number of committee chairs that a political group would be entitled to appoint in accordance with the section 70 determination, and
    - (ii) the number of committee chairs holding office at that time who were appointed by that group.
- (4) The appointment provision must provide for any difference of the kind referred to in subsection (3)(b) to be eliminated by either or both of the following—
  - (a) the termination of existing appointments of committee chairs;
  - (b) the making of new appointments of committee chairs.
- (5) For the purposes of this section, a political group is to be taken to cease to be an executive group only if, after ceasing to be an executive group, the period of two

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months (beginning with the day on which it ceases to be an executive group) passes without it becoming an executive group again.

**Commencement Information**

**I12** S. 72 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

**73 Occasional vacancies in committee chairs** W

- (1) A local authority's appointment provision complies with this section if it provides for the case set out in subsection (2) by means of provision of the kind referred to in subsections (3) and (4).
- (2) That case is where—
  - (a) some, but not all, of the authority's committee chairs fall to be appointed, and
  - (b) it is not the case set out in section 72.
- (3) The appointment provision must provide for the making of—
  - (a) a section 70 determination (as if all of the local authority's committee chairs had fallen to be appointed), and
  - (b) a determination of whether there is a difference between—
    - (i) the number of committee chairs that a political group would be entitled to appoint in accordance with the section 70 determination, and
    - (ii) the number of committee chairs holding office at that time who were appointed by that group.
- (4) The appointment provision must provide for any difference of the kind referred to in subsection (3)(b) to be eliminated, so far as possible, by the appointment of the committee chair or chairs.

**Commencement Information**

**I13** S. 73 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

**74 Appointment provision determined by authority** W

- (1) A local authority's appointment provision complies with this section if the provision—
  - (a) is no less favourable to opposition groups than section 70, and
  - (b) is approved by a resolution of the local authority which has cross-group support.
- (2) Appointment provision is no less favourable to opposition groups than section 70 if it provides—
  - (a) for opposition groups on the local authority (when taken together) to be given the opportunity to appoint a greater number of committee chairs than would be the case with provision made in accordance with section 70, and
  - (b) for each opposition group on the local authority to be given the opportunity to appoint at least the number of committee chairs as would be the case with provision made in accordance with section 70.

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- (3) A resolution of the local authority has cross-group support if—
  - (a) the persons voting in favour of the resolution include members of every political group on the authority, and
  - (b) each political group on the authority gives majority support to the resolution.
- (4) A political group on the authority gives majority support to the resolution if the number of members of that group who vote in favour of the resolution is greater than the number of members of that group who vote against the resolution.

#### Commencement Information

**I14** S. 74 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

## 75 Supplementary provision and interpretation **W**

- (1) The Welsh Ministers may, by regulations, make provision about—
  - (a) appointment provision, and
  - (b) the appointment of committee chairs in accordance with appointment provision.
- (2) A local authority must, in exercising or deciding whether to exercise a function in connection with appointment provision or the appointment of committee chairs—
  - (a) have regard to guidance given by the Welsh Ministers, and
  - (b) comply with any directions given by the Welsh Ministers.
- (3) In sections 66 to 74 and this section—
  - “appointment provision” (“*darpariaeth benodi*”) has the meaning given in section 66;
  - “committee chair” (“*cadeirydd pwyllgor*”) has the meaning given in section 66;
  - “executive group” (“*grŵp gweithrediaeth*”) means a political group some or all of whose members comprise, or are included in, the executive of the authority;
  - “opposition group” (“*grŵp gwrthblaid*”) means a political group none of whose members are included in the executive of the authority;
  - “political group” (“*grŵp gwleidyddol*”), in relation to a local authority, means a group of members of the authority that is a political group for the purposes of Part 1 of the Local Government and Housing Act 1989;
  - “section 70 determination” (“*dyfarniad adran 70*”) means a determination of the kind referred to in section 70.
- (4) In section 21 of the Local Government Act 2000 (overview and scrutiny committees), after subsection (10) insert—
  - “(10A) For provision about the appointment of persons to chair overview and scrutiny committees of local authorities in Wales, see sections 66 to 75 of the Local Government (Wales) Measure 2011.”.

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**Commencement Information**

**I15** S. 75 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(h)

*Co-opted members of overview and scrutiny committees*

**76 Guidance and directions about co-option** W

- (1) A local authority must, in exercising or deciding whether to exercise a co-option function—
  - (a) have regard to guidance given by the Welsh Ministers, and
  - (b) comply with directions given by the Welsh Ministers.
- (2) In this section “co-option function” means a function of a local authority that relates to co-opted members of—
  - (a) overview and scrutiny committees, or
  - (b) sub-committees of such committees.
- (3) That includes (but is not limited to) a function that relates to appointment of such co-opted members.

*Provision of information*

**77 Forward plans and other information** W

- (1) The Welsh Ministers may by regulations make provision for or in connection with requiring prescribed information about the exercise of the functions of—
  - (a) an overview and scrutiny committee of a local authority, or
  - (b) a sub-committee of such a committee,
 to be made available to members of the public or members of the authority.
- (2) The provision that may be made under subsection (1) includes (but is not limited to)—
  - (a) provision requiring prescribed information to be made available in advance of the exercise of functions mentioned in that subsection, and
  - (b) provision as to the way or form in which prescribed information is to be made available.

*Restricting party control of committees*

**78 Prohibition of whipped votes & declaration of party whips** W

- (1) A member of an overview and scrutiny committee must not vote on a question at a meeting of the committee if, before the meeting, the member has been given a party whip relating to the question (a “prohibited party whip”).
- (2) A vote that is given in breach of subsection (1) must be disregarded.
- (3) Standing orders must provide that, at each meeting of an overview and scrutiny committee of a local authority, each member of the committee must declare any prohibited party whip which the member has been given in relation to the meeting.

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*Status: Point in time view as at 22/04/2020. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government (Wales) Measure 2011, PART 6. (See end of Document for details)*

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- (4) Standing orders must require the minutes of each meeting of an overview and scrutiny committee to record all such declarations of prohibited party whips made at the meeting.
- (5) It is for the person chairing a meeting of an overview and scrutiny committee to determine whether a member of the committee has been given a prohibited party whip in relation to the meeting.
- (6) If the decision of a question by an overview and scrutiny committee is materially affected by a breach of this section, the decision is to be treated as if it had not been made.
- (7) Subsection (6) does not affect any act or omission of any person apart from the overview and scrutiny committee.
- (8) For the purposes of subsection (6), the decision of a question by an overview and scrutiny committee is materially affected by a breach of this section if—
  - (a) one or more members of the committee vote on the question in breach of subsection (1),
  - (b) one or more of the votes mentioned in paragraph (a) is not disregarded in accordance with subsection (2), and
  - (c) the decision on the question would have been different if the vote or votes mentioned in paragraph (b) had been disregarded in accordance with subsection (2).
- (9) This section applies in relation to a sub-committee of an overview and scrutiny committee as it applies to the overview and scrutiny committee (and references in this section to an overview and scrutiny committee are accordingly to be read as including references to such a sub-committee).
- (10) In this section—
  - “party whip” (“*cyfarwyddyd chwip plaid*”) means an instruction (however expressed) which—
    - (a) is given on behalf of a political group on a local authority;
    - (b) is given to a person (P) who is—
      - (i) a member of the political group, and
      - (ii) a member of an overview and scrutiny committee of the local authority;
    - (c) is an instruction as to how P should vote on a question falling to be decided by the committee; and
    - (d) if not complied with by P, would be likely to make P liable to disciplinary action by the political group which gives the instruction;
  - “political group” (“*grŵp gwleidyddol*”) means a group of members of a local authority that is a political group for the purposes of Part 1 of the Local Government and Housing Act 1989;
  - “standing orders” (“*rheolau sefydlog*”), in relation to an overview and scrutiny committee, means standing orders regulating the proceedings and business of that committee.

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*Changes to legislation: There are currently no known outstanding effects for the Local Government (Wales) Measure 2011, PART 6. (See end of Document for details)*

#### Commencement Information

**I16** S. 78 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(i)

### Overview and scrutiny committee structure

#### 79 Guidance and directions **W**

- (1) The Welsh Ministers may give a local authority—
  - (a) guidance about the authority's overview and scrutiny committee structure, or
  - (b) directions about the authority's overview and scrutiny committee structure.
- (2) A local authority must have regard to guidance given by the Welsh Ministers under this section.
- (3) A local authority must comply with directions given by the Welsh Ministers under this section.
- (4) In this section, references to a local authority's overview and scrutiny committee structure include (but are not limited to) references to the following things—
  - (a) the number of overview and scrutiny committees which the authority has;
  - (b) the number of sub-committees (if any) which overview and scrutiny committees of the authority have;
  - (c) the functions of overview and scrutiny committees of the authority;
  - (d) the functions of sub-committees of overview and scrutiny committees of the authority.

### Interpretation

#### 80 Interpretation of this Chapter **W**

In this Chapter—

“co-opted member” (“*aelod cyfetholedig*”), in relation to an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, means a person who is—

- (a) a member of the committee or sub-committee, but
- (b) not a member of the local authority;

“overview and scrutiny committee” (“*pwylgor trosolwg a chraffu*”) has the same meaning as in Part 2 of the Local Government Act 2000 (see section 21 of that Act).

## CHAPTER 2 **W**

### AUDIT COMMITTEES

#### 81 Local authorities to appoint audit committees **W**

- (1) A local authority must appoint a committee (an “audit committee”) to—



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- (a) review and scrutinise the authority's financial affairs,
  - (b) make reports and recommendations in relation to the authority's financial affairs,
  - (c) review and assess the risk management, internal control and corporate governance arrangements of the authority,
  - (d) make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements,
  - (e) oversee the authority's internal and external audit arrangements, and
  - (f) review the financial statements prepared by the authority.
- (2) A local authority may confer on its audit committee such other functions as the authority considers suitable to be exercised by such a committee.
- (3) It is for an audit committee to determine how to exercise its functions.

#### Commencement Information

**I17** S. 81 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(j)

## 82 Membership **W**

- (1) A local authority is to appoint the members of its audit committee.
  - (2) A local authority must secure that—
    - (a) at least two-thirds of the members of its audit committee are members of the authority;
    - (b) at least one member of its audit committee is a lay member;
    - (c) no more than one of the members of its audit committee is a member of the authority's executive;
    - (d) the senior member of its executive is not a member of its audit committee.
  - (3) Subsection (2)(c) does not require the membership of a local authority's audit committee to include a member of the authority's executive.
  - (4) The appointment of a person as a member of an audit committee has no effect if the membership of the committee breaches subsection (2) immediately after the appointment (whether or not by virtue of the appointment).
  - (5) In a case where one or more persons are to become, or to cease to be, members of an audit committee at a particular time, all those changes of membership are to be taken into account in determining whether the membership of the committee breaches subsection (2).
  - (6) An act of an audit committee is invalid if the membership of the committee breaches subsection (2).
- [<sup>F1</sup>(7) An audit committee is to be treated as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.]

#### Textual Amendments

**F1** S. 82(7) inserted (30.9.2013) by Local Government (Democracy) (Wales) Act 2013 (anaw 4), ss. 61, 75(2)(d)

*Status: Point in time view as at 22/04/2020. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government (Wales) Measure 2011, PART 6. (See end of Document for details)*

#### Commencement Information

**I18** S. 82 in force at 30.4.2012 by [S.I. 2012/1187](#), [art. 2\(1\)\(j\)](#)

### 83 Proceedings etc **W**

- (1) An audit committee is to appoint the person who is to chair the committee (who may be a member of the authority or a lay member but who must not be a member of an executive group).
- (2) If there are no opposition groups, the person who is to chair the audit committee may be a member of an executive group but must not be a member of the local authority's executive.
- (3) All members of an audit committee may vote on any question that falls to be decided by the committee.
- (4) An audit committee of a local authority—
  - (a) may require members and officers of the authority to attend before it to answer questions, and
  - (b) may invite other persons to attend meetings of the committee.
- (5) It is the duty of any member or officer of a local authority to comply with any requirement imposed under subsection (4)(a).
- (6) A person is not obliged by subsection (5) to answer any question which the person would be entitled to refuse to answer in, or for the purposes of, proceedings in a court in England and Wales.
- (7) An audit committee is to be treated as a committee of a principal council for the purposes of Part 5A of the Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees).
- (8) For the purposes of subsections (1) and (2), the expressions “executive group” and “opposition group” have the same meaning as in section 75.

#### Commencement Information

**I19** S. 83 in force at 30.4.2012 by [S.I. 2012/1187](#), [art. 2\(1\)\(j\)](#)

### 84 Frequency of meetings **W**

- (1) An audit committee must meet once in every calendar year.
- (2) The audit committee of a local authority must also meet if—
  - (a) the local authority resolves that the committee should meet, or
  - (b) at least one-third of the members of the committee requisition a meeting by one or more notices in writing given to the person who chairs the committee.
- (3) It is the duty of the person who chairs an audit committee to secure that meetings of the committee are held as required by subsections (1) and (2).
- (4) This section does not prevent an audit committee from meeting otherwise than as required by this section.

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*Changes to legislation: There are currently no known outstanding effects for the Local Government (Wales) Measure 2011, PART 6. (See end of Document for details)*

#### Commencement Information

**I20** S. 84 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(j)

### 85 Guidance **W**

- (1) The Welsh Ministers may give guidance to local authorities—
  - (a) about the functions of audit committees and the exercise of those functions, or
  - (b) about the membership of audit committees.
- (2) A local authority and its audit committee must have regard to guidance given by the Welsh Ministers under subsection (1).

#### Commencement Information

**I21** S. 85 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(j)

### 86 Termination of membership on ceasing to be member of authority **W**

- (1) This section applies to a person (P) who is—
  - (a) appointed to be a member of an audit committee of a local authority, and
  - (b) is a member of the authority at the time of that appointment.
- (2) If P ceases to be a member of the authority, P also ceases to be a member of the audit committee.
- (3) But subsection (2) does not apply if P—
  - (a) ceases to be a member of the authority by reason of retirement, and
  - (b) is re-elected a member of the authority not later than the day of retirement.
- (4) Subsection (3) is subject to the standing orders of the authority or the audit committee.

#### Commencement Information

**I22** S. 86 in force at 30.4.2012 by S.I. 2012/1187, art. 2(1)(j)

### 87 Interpretation etc **W**

- (1) Expressions used in this Chapter and in Part 2 of the Local Government Act 2000 (or in an instrument made under that Part of that Act) have the same meanings in this Chapter as in that Part of that Act (or in that instrument).
- (2) In this Chapter—
  - “audit committee” (“*pwylgor archwilio*”) has the meaning given in section 81;
  - “lay member” (“*aelod lleyg*”) means a person who is not a member of a local authority;
  - “senior member of a local authority” (“*aelod hŷn awdurdod lleol*”) means—

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- (a) in the case of a local authority which operates a leader and cabinet executive (Wales), the executive leader;
- (b) in the case of a local authority which operates a mayor and cabinet executive, the mayor.

<sup>F2</sup>(3) .....

**Textual Amendments**

**F2** S. 87(3) repealed (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), s. 178(2), **Sch. 4 Pt. B** (with s. 36(5)-(8))

**Commencement Information**

**I23** S. 87 in force at 30.4.2012 by S.I. 2012/1187, **art. 2(1)(j)**

**Status:**

Point in time view as at 22/04/2020. This version of this part contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government (Wales) Measure 2011, PART 6.