



Llywodraeth Cymru
Welsh Government

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Welsh Government
Consultation – summary of response

Consultation on the Local Government and Elections (Wales) Act 2021: Draft Statutory Guidance for Community and Town Councils

June 2022

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

This document is also available in Welsh.

Overview

The Welsh Government undertook a consultation on the draft statutory guidance for community and town councils on provisions relating to the Local Government and Elections (Wales) Act 2021. The guidance will support community and town councils to discharge new powers and duties, which include:

- eligibility to exercise the general power of competence
- accessing meetings from multiple locations
- providing opportunities for public participation at public council meetings
- publishing an annual report
- publishing a training plan to support training for councillors and council staff.

This document provides an overview of responses received.

Action Required

This document is for information only.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

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Additional copies

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

Link to the consultation documentation: <https://gov.wales/community-council-clerk-qualifications-regulations>

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Introduction – Background to the consultation

The Local Government and Elections (Wales) Act 2021 Act (“the 2021 Act”) was passed on 20 January 2021 and provides for the establishment of a new and reformed legislative framework for local government elections, democracy, governance and performance. The legislation affects the community and town council sector.

The 2021 Act gives qualifying local authorities, including eligible community councils, a general power of competence. This guidance supports community and town councils to consider the requirements should they wish to become eligible community councils.

This guidance also provides information to help all community councils discharge their new duties in relation to the following requirements:

- accessing meetings from multiple locations
- providing opportunities for public participation at public council meetings
- preparing and publishing an annual report
- preparing and publishing a training plan to support training for councillors and council staff
- other provisions which impact on community and town councils.

Draft statutory guidance was prepared to support community and town councils in implementing the 2021 Act. The consultation provided an opportunity for stakeholders to provide input and insight into the statutory guidance. Councils must have due regard to the final version of this guidance when carrying out their activities.

Consultation process

The Welsh Government undertook a formal consultation on the draft statutory guidance for community and town councils on the 2021 Act. The consultation was open for responses between 17 December 2021 and 17 March 2021.

Online versions of the formal consultation document and the draft regulations were provided in English and Welsh on the Welsh Government website. The link to the consultation was sent to all community and town councils in Wales as well as a range of other stakeholders.

Responses received

A total of 41 responses were received by the deadline. No further responses were received after the deadline.

Responses were received as follows:

- 34 responses from the community and town council sector
- 3 responses from audit/inspection/regulator/commissioner bodies
- 1 response from representative bodies, professional bodies or associations
- 2 responses from members of the public
- 1 anonymous response

Summary of response

This document is intended as a summary of the responses received. It does not aim to capture in detail every point raised by respondents.

Nine questions were asked in the consultation document and the responses to each are summarised below.

Not all questions were answered by all respondents and some gave a general response to the consultation rather than answering specific questions. Where this is the case we have included their response under the most appropriate question or included in the summary of responses to question nine.

Question 1: Generally, is the structure and coverage of the guidance presented clearly and in a way which is practical for community and town councils?

There were 31 direct, yes / no, responses to this question, of which 30 agreed that the structure and coverage of the guidance was presented clearly and in a way which is practical for community and town councils. These were complemented with suggestions to number the paragraphs to improve accuracy of referencing to the guidance. This has been reflected in the final version of the statutory guidance.

Question 2: Does Chapter 1 provide sufficient and appropriate guidance on the eligibility conditions for exercising the general power of competence? Is it clear on how the general power of competence should be applied? What additional information would be helpful?

There were 26 direct yes/no responses to this question, with 23 agreeing and 3 disagreeing. 15 responses did not express an opinion.

Key comments for improving the chapter were:

- Make it clearer when the general power could be used where no trading company is needed and when it is used for a commercial purpose – and therefore a trading company is needed;
- Clarify whether a community council is declaring competence or eligibility to use the general power of competence;
- Provide more detail on the difference between the general power of competence and the general power under section 137 of the Local Government Act 1972;
- Clarify what happens to eligibility when one of the conditions is no longer met, e.g. a CiLCA qualified clerk leaves the council;
- Provide clarity on the impacts of creating a trading company to exercise the general power of competence for a commercial purpose;
- Provide case study examples of where the general power of competence has been used.

Question 3: What additional information would be helpful to illustrate or clarify how the general power of competence could be applied to community councils? Do you have any case studies which could support this?

One response to this question suggested drawing on examples from English parish councils, perhaps from NALC (National Association of Local Councils). Another response suggested making it clearer what additional powers or flexibility were available to an eligible community council.

Question 4: Do Chapters 2 and 3 provide sufficient and appropriate guidance on the requirements relating to multi-location meetings and on how the public may participate in council meetings?

Of the 22 substantive responses to this question, 21 agreed that there was sufficient guidance provided and one disagreed. There were a number of suggestions for additional detail and other comments raised in relation to these questions. These include:

- It would be helpful to emphasise that these provisions apply to all community and town councils;
- It was noted that there was no information provided relating to holding bilingual meetings, and links to guidance from the Welsh Language Commissioner were provided;
- It was suggested that the minimum requirement that people can hear and be heard be emphasised more strongly;
- There was a suggestion that the guidance be re-worded so that members of the public must request special permission to speak, rather than being entitled to speak on business items. There were additional concerns around managing the conduct of members of the public in certain cases.

There were other comments raising concern that not all councils are able to hold virtual or hybrid meetings in their council meeting venues. There were a small number of requests for funding to enable councils to have the kit and/or training to support councils to meet the legal requirement.

Question 5: Does Chapter 4 provide sufficient and appropriate guidance on meeting the duty to prepare and publish annual reports? What additional specific information would be helpful?

A total of 22 respondents replied directly to this question. 20 responses agreed that Chapter 4 provides sufficient and appropriate guidance and two responses disagreed.

Specific comments and suggestions regarding guidance on annual reporting included:

- Making more explicit that reporting requirements may be combined, e.g. with the biodiversity duty
- That the planned finance & governance toolkit for community and town councils will support councils to develop their annual reports; and
- That community councils which have adopted a Welsh Language Scheme are committed to publishing their annual report bilingually, and that community councils without such a scheme should be encouraged to do so.

Question 6: Does Chapter 5 provide sufficient and appropriate guidance on meeting the duty to prepare and publish training plans? What additional information would be helpful?

There were 25 responses to this question: 22 agreed that the draft guidance was sufficient and three felt that more was needed. Comments and suggestions on this chapter included:

- It would be helpful to clarify whether the purpose is to ensure each councillor and officer has sufficient skills or that the council as a whole has sufficient skills;
- Confirmation that all councillors should attend the listed training areas i.e. basic induction training, code of conduct training and financial management and governance;
- A request for a training plan template;
- Confirmation that all forms of training are recognised in the plan, e.g. mentoring; and
- A comment that disagreed that councils should bear the cost of training.

Question 7: We would like to know your views on the effects that this guidance would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 7 provided an opportunity to raise any issues and opportunities to support and promote the Welsh language in relation to guidance on the 2021 Act for community and town councils. The following comments were received:

- The Welsh Language Commissioner noted that the guidelines do not explicitly refer to the Welsh language, and as such, miss an opportunity to promote the Welsh language, remind councils that Welsh has equal status with English, and to support councils to use it.
- One response suggested that the Welsh Government should provide financial assistance for community and town councils to provide translation services. They also suggest that all council meetings should be required to provide simultaneous translation if a councillor wishes to speak Welsh at meetings. Similarly, they suggest that if a member of the public wishes to speak Welsh, in an area where a significant proportion of the electorate speaks Welsh, that simultaneous translation should be provided;
- That there is a need to provide guidance on how to support simultaneous translation in multi-location meetings;
- There was a question on whether CiLCA is provided through the medium of Welsh. There was a similar question on whether the Society of Local Council Clerks could ensure clerks' understanding of the status and situation of the Welsh language in Wales.

- One response felt that supporting the Welsh language, e.g. through bilingual papers, agendas and minutes is costly and that expectations should be minimal.

Question 8: Please also explain how you believe the proposed guidance could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

There were no new substantive comments to this question. Comments relating to supporting and promoting the Welsh language, and ensuring there are no adverse effects on opportunities to use the Welsh language, were provided in the previous question.

Question 9: If you have any related issues which we have not specifically addressed, please use this space to report them

This question provided an opportunity for respondents to provide comments on the draft statutory guidance not addressed in previous questions. There were two substantive sets of comments.

The first comment was from the Public Services Ombudsman for Wales. They recommended additional changes to the expectations for what should be covered by annual reports, specifically:

- The number of complaints raised about the relevant members;
- The nature of these complaints related to; and
- The outcomes of these complaints (including how many were resolved locally).

The Ombudsman suggested that the benefits of this would be to improve the awareness and transparency of the standards of conduct of public business in community and town councils, as well as reduce low-level complaints being raised in those settings. The Ombudsman also provided a link to updated guidance on the code of conduct of community and town council members.

The second comment was a broader one asking for help for people with dyslexia who wish to serve in public life.

Considerations

The Welsh Government values all the responses received to the consultation. Whilst this report will not be providing a response to each of the issues raised, the responses have been carefully considered and taken into account.

It is noted that the vast majority of substantive responses to the consultation supported the content, format and structure of the guidance. There were a number of comments and suggestions to improve the guidance and these have been used to improve the document. For example, there were requests to provide examples and case studies of how the general power of competence could be, or has been, used. There were a number of comments requesting that the guidance clarify and confirm such points as that annual reporting requirements on community councils may be combined, and that the requirement for multi-location meetings applies to all councils.

Some comments were provided which go beyond the scope of statutory guidance. The guidance is intended to support community councils in implementing the 2021 Act and it is not for the guidance to amend the 2021 Act or reflect on non-legislative issues outside of the 2021 Act. However, they related to important issues and are addressed below rather than the statutory guidance.

Some councils expressed concern at the requirement to supporting multi-location meetings. Concerns included, but are not limited to, the cost of purchasing equipment to enable hybrid meetings, the cost of installing broadband into their meeting venue, that not all meeting venues are owned by the council, the training for clerks in supporting hybrid meetings, and the preference of some for face-to-face meetings. The guidance reflects the requirements of the duty and reminds councils of the minimum requirement that attendees can hear and be heard in proceedings. More broadly, the Minister for Finance and Local Government has agreed that an appraisal of the digital capacity and capability of the sector is needed to assess what support is needed to meet these provisions. The Chief Digital Officer for Local Government is to undertake a rapid review of digital readiness following the local government elections in May 2022.

The Welsh Language Commissioner noted that work has been completed to ensure that the Certificate in Local Council Administration (CiLCA) course was available to complete in Welsh and English. CiLCA is the minimum qualification required by clerks for their community council to be able meet one of the conditions to exercise the general power of competence. They also encouraged the Welsh Government to discuss with the SLCC how to ensure clerks' understanding of the status and situation of the Welsh language in Wales. The CiLCA course includes items on understanding the requirements for Welsh language, such as, ensuring that clerks' documents reflect a proper understanding of the Welsh Language Act and that requirements relating to the Welsh Language must be met in councils' decisions. We will work with the SLCC to encourage the broader network of clerks understand the status and situation of the Welsh language, such as through the Finance & Governance Toolkit for Community and Town Councils.

There were some requests for a template for training plans and annual reports. The Welsh Government recognises that the necessary format and size of annual reports will vary significantly between councils and that providing templates for the whole sector is unlikely to be helpful. Instead, guidance has been provided on the content of these products. We want to encourage community councils to be creative and proportionate in their approach to these. We believe that the best advice will come from within the sector, e.g. from other, similar community councils or One Voice Wales.

An important point was raised around supporting those with dyslexia to access public office. This was inferred to include other people who may be disadvantaged by society from seeking elected office. The Access to Elected Office Fund Wales exists to assist disabled people who want to stand for elected office with the additional impairment related costs that are a barrier to their participation in politics. It is administered by Disability Wales and funded by the Welsh Government. A pilot scheme was run to fund reasonable adjustments and support for disabled candidates seeking election to the Senedd Cymru 2021 election and in the 2022 Local Government elections. We will reflect on the outcomes before taking further action.

Next steps

There have been a number of amendments to the draft statutory guidance to take account of the very helpful comments from the consultation. The final statutory guidance has now been prepared and published.

We will continue work with partners in One Voice Wales and SLCC to provide support to the sector for changes resulting from the 2021 Act to ensure suitable implementation.

Annex A – List of respondents to the consultation

Community and town council sector

34 submissions*

* This reflects the number of submissions which came from the community council sector. It was unclear from many of the responses whether the response was an individual, personal response from a clerk or councillor, or a formal response on behalf of a council. In addition, more than one response was received from some councils, either from two councillors or the council and a separate response from the clerk.

Audit/inspection/regulator/commissioner bodies

Audit Wales
Public Services Ombudsman for Wales
Welsh Language Commissioner

Representative bodies, professional bodies or associations

One Voice Wales

Members of the public

2 submissions

Anonymous

1 submissions