



Llywodraeth Cymru  
Welsh Government

GUIDANCE, DOCUMENT

# Improving local authorities and town councils: guidance

Guidance on the regulations to help develop and strengthen the role of local authorities and community councils.

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# Introduction

Part 7 of the Local Government (Wales) Measure 2011 ('the Measure') contains provisions which give effect to Welsh Government commitments to develop and strengthen the role of community councils in Wales, enabling them to deliver a wider range of services and actions locally as well as increasing the effectiveness of their representational role and their ability to work in partnership with other bodies.

These provisions flowed from the recommendations of a study, commissioned by the Welsh Government and undertaken in 2003, by the University of Wales, Aberystwyth: Institute of Geography and Earth Sciences into community councils in Wales, titled Research Study into the Role, Functions and Future Potential of Community and Town Councils in Wales ('the Aberystwyth Study').

The Aberystwyth Study presented a comprehensive review of the activities undertaken by community councils across Wales. The report concluded that there were growing pressures for reform to the structure and working practices of community councils. The report outlined the opportunities available to community councils, the constraints within which they operate and proposals for enhancing their roles.

The Welsh Government's response to the report and subsequent 2007 local government policy statement, 'A Shared Responsibility', set out a range of commitments which have guided policy and action in this area since. The 2011 Measure provided the vehicle for those aspects which required primary legislation to implement them.

This guidance document includes statutory guidance in relation to the co-option of members of community councils (Chapter 3 of the Measure) and the appointment of community youth representatives (Chapter 4 of the Measure). When exercising functions under the provisions to which these

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Chapters relate, regard must be given to this guidance.

For each of the other Chapters in Part 7, this guidance provides a summary of the provisions contained within the Measure and where appropriate an update on the latest position regarding the adoption of those provisions. It should be noted that separate guidance, both statutory and non-statutory, may be developed in support of the various chapters of this Part of the Measure. This guidance will be available on the Welsh Government website.

For the purposes of this guidance, principal council refers to county or county borough councils, whilst community council refers to any community or town council.

## References to legislation

This guidance refers to several pieces of legislation. Each of these will be referred to throughout this document by reference to the year of the legislation. For example, the Local Government Act 1972, will be referred to as “The 1972 Act”. The full list is below.

- The Local Government Act 1972: “The 1972 Act”
- The Representation of the People Act 1983: “The 1983 Act”
- The Representation of the People Act 1985: “The 1985 Act”
- The Local Government (Wales) Act 1994: “The 1994 Act”
- The Local Government Act 2000: “The 2000 Act”
- The Local Government (Wales) Measures 2011: “The Measure”
- The Local Government (Democracy) (Wales) Act 2013: “The 2013 Act”
- The Local Government and Elections (Wales) Act 2021: “The 2021 Act”

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# Chapter 1: community meetings and community polls

## Introduction

Provisions within the Local Government Act 1972 ('the 1972 Act') allowed a very small number of electors to call a meeting and trigger a poll. Such community polls could prove costly with no obligation on the part of the principal or community council to abide by the outcome.

The Local Government and Elections (Wales) Act 2021 ("the 2021 Act") has repealed community polls (Schedule 13 to the 2021 Act), with the exception of community governance polls. These matters are addressed in further detail below and Chapter 2.

## The Measure provisions

### Community meetings convened by the chair of the council or 2 councillors

The Measure amended the 1972 Act to provide that a community meeting may be convened at any time by the chair of the community council or by 2 councillors who represent the community on the council.

Where community meetings are convened in this way, the 1972 Act (as amended by the Measure and the Local Government (Wales) Act 1994) states that public notice must be given. If the business of the community meeting is a general issue, at least seven days notice must be given; if the business concerns the existence of a community council or the grouping of a community

with other communities, at least thirty days notice must be given. The 1972 Act (as amended) also specifies the details which are required to be included in the notice and how the notice should be published.

## **Community meetings convened by local government electors**

The Measure inserted paragraphs 30A to 30E into Schedule 12 to the 1972 Act. Paragraph 30A introduced new thresholds relating to the convening of community meetings by local government electors. A community meeting must be convened by no less than 10% of the local government electors for that community or 50 of the electors (if 10% exceeds 50 electors). In accordance with paragraph 33 of Schedule 12 to the 1972 Act, where there is a community council, such a meeting must be chaired by the existing chair of that council (if present). Where there is no community council, a chair is to be appointed by those electors attending the community meeting.

Paragraph 30B sets out that the convenors of the meeting are required to give notice of the meeting to the community council, where one exists, or the principal council where one does not.

Paragraph 30B sets out the information required to be contained within that notice and allows for the supporting electors to retain anonymity if they are registered anonymously in the register of local government electors (under section 9B of the Representation of the People Act 1983 (“the 1983 Act”).

Paragraph 30C (as amended by the Local Government (Democracy) (Wales) Act 2013 (“the 2013 Act”)), allows for the notice to be given in electronic format, and requires both community councils and principal councils to have facilities available to enable such electronic notices. Paragraph 30C requires a principal council to set, and appropriately publicise, for its area the requirements for electronic notices, such as the authentication of an electronic signature.

Paragraph 30D states that, on receipt of a notice under paragraph 30B, the recipient council must consider whether the stipulated requirements and initial trigger threshold have been met. If the council considers that they have not been met, it must give notice to the convenors and state why it is of that opinion.

Pursuant to paragraph 30E, if the council considers that the stipulated requirements have been met, then the recipient council must give public notice of the meeting within 30y days. If the business of the community meeting is a general issue, at least seven clear days notice of the meeting must be given; if the business concerns the existence of a community council or the grouping of a community with other communities, at least thirty clear days notice must be given. Paragraph 30E also specifies the details which are required to be included in the notice and how the notice should be published. Paragraph 30E(7), as amended by the 2013 Act, introduced a requirement that public notices of a community meeting should be given by publishing the notice electronically.

## Repeal of community polls

The provisions within the 2011 Measure on community polls were repealed by Schedule 13 to the 2021 Act. The 2021 Act replaced community polls with a system of petitions, placing a duty on principal councils to make and publish a scheme setting out how it intends to handle and respond to petitions (including electronic petitions).

However, community governance polls remain, i.e. those which enable a community to hold a poll in respect of a proposal to establish or dissolve a community council, or to group with other communities under a common community council, see chapter 2 below.

## Chapter 2: organisation of communities and their

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# councils

## Introduction

The Welsh Government's response to the Aberystwyth Study indicated that it would legislate to make it easier for communities to establish community councils where they do not already exist and to require a greater level of support for a proposal to dissolve an existing council.

Chapter 2 of Part 7 amends the provisions contained within the 1972 Act to provide a lower threshold for a decision by a community meeting to call for a poll to establish a community council; and for the dissolution of a council to be supported by at least two-thirds of those voting in a poll. The opportunity has also been taken in the Measure to repeal the existing provisions of the 1972 Act relating to the creation, grouping and dissolution of councils and to recast them in a more easily understood form. Chapter 2 of Part 7 of the Measure repealed sections 28 to 29B of the 1972 Act, and inserted sections 27A to 27M.

## The Measure provisions

### Establishing a new community council

A community meeting may apply to its principal council for an order establishing a new community council where the community does not have a separate community council. Prior to making such an application the community meeting must meet certain conditions which are set out in section 27A of the 1972 Act.

Firstly, the community meeting must have taken an effective decision to hold a poll on a proposal to establish a council for that community. A decision to hold such a poll is only effective if a minimum of 10% of the local government electors



for that community, or 150 of the electors (if 10% of the electors exceeds 150), are present and voting at the meeting.

Secondly, the poll cannot be held before the end of the period of 42 days beginning with the day on which the decision to hold the poll was taken.

Thirdly, a poll may not be held within 2 years of an earlier poll which resulted in a rejection of a proposal to establish a community council. The fourth, and final, condition is that a majority of those voting in the poll must support the proposal to establish a community council.

On receipt of an application to establish a new community council, the principal council must consider whether the required conditions have been met. If the council is satisfied the conditions have been met, the order applied for must be made, subject to any provisions the principal council considers necessary (section 27B of the 1972 Act).

## **Dissolving an existing community council**

A community meeting may apply to its principal council for an order dissolving an existing community council. Prior to making such an application the community meeting must meet certain conditions, which are set out in section 27C of the 1972 Act.

Firstly, the community meeting must have taken an effective decision to hold a poll on a proposal to dissolve an existing council for that community. A decision to hold such a poll is effective only if a minimum of 30% of the local government electors for the community, or 300 of the electors (if 30% of the electors exceeds 300), are present and voting at the meeting.

Secondly, a poll cannot be held before the end of the period of 42 days beginning with the day on which the decision to hold the poll was taken.

Thirdly, a poll may not be held within 2 years of an earlier poll which resulted in a rejection of a proposal to dissolve an existing community council. The fourth and final condition is that at least two-thirds of those voting in a poll must support the proposal to dissolve the council for the community, ie a higher threshold than establishing a community council.

On receipt of the application to dissolve the council of a community, the principal council must consider whether the required conditions have been met. If the council is satisfied the conditions have been met, the order applied for must be made (section 27D of the 1972 Act).

## **Grouping communities under a common community council**

A community meeting may apply to its principal council for an order grouping the community with some neighbouring community or communities which lie in the same principal area as the community, under a common community council. Prior to making such an application, the community meeting must meet certain conditions which are set out in section 27E of the 1972 Act.

The conditions are essentially the same as those for establishing a new community council, with the additional requirement that applications must be made jointly with the other community or communities involved in the prospective grouping.

On receipt of the application, the principal council must consider whether the required conditions have been met. If the council is satisfied the conditions have been met, the order applied for must be made (section 27F of the 1972 Act). The order made must specify the name of the group in both English and Welsh, make such provision as the principal council considers necessary as regards the matters set out in section 27F(5)(a) and (6), and provide for dissolution of the separate community council of any community included in the group.

## **Adding a community to a group of communities under a common community council**

A community meeting may apply to its principal council for an order adding the community to a group of communities, all of which lie in the same principal area as the community, and for which there is a common community council. Prior to making such an application, the community meeting must meet certain conditions which are set out in section 27G of the 1972 Act.

The conditions are essentially the same as those for establishing a new community council, with the additional requirement that a community meeting of each of the communities in the group must make an effective decision to hold a poll on the proposal, and a majority of those voting in the subsequent poll/polls consent to the community joining the group.

On receipt of the application, the principal council must consider whether the required conditions have been met. If the council is satisfied the conditions have been met, the order applied for must be made (section 27H of the 1972 Act). The order must address the matters set out in section 27H, which are broadly the same additional matters as set out in paragraph 2.15 above when making an order grouping communities.

## **Dissolving a group of communities**

A community council may apply to its principal council for an order dissolving a group of communities. Prior to making such an application, the community meeting must meet certain conditions which are set out in section 27I of the 1972 Act.

The conditions are essentially the same as those for dissolving a community council, with each community in the group being required to hold an effective

community meeting in order to decide to hold a poll, and two-thirds of those voting in each poll agree to the proposal to dissolve the group.

On receipt of the application, the principal council must consider whether the required conditions have been met. If the council is satisfied the conditions have been met, the order applied for must be made (section 27J of the 1972 Act), subject to any provisions the principal council considers necessary for the election of a community council for any of the communities in the group.

## **Separating a community from a group of communities**

A community meeting of a community included in a group of communities, may apply to its principal council for an order separating the community from the group. Prior to making such an application, the community meeting must meet certain conditions which are set out in section 27K of the 1972 Act.

The conditions are essentially the same as those for dissolving a community council.

On receipt of the application, the principal council must consider whether the required conditions have been met. If the council is satisfied the conditions have been met, the order applied for must be made (section 27L of the 1972 Act), subject to any provisions the principal council considers necessary for the election of a community council for the community.

## **Altering voting thresholds in connection with the organisation of community councils**

The Measure inserted section 27M into the 1972 Act enabling Welsh Ministers, by order, to alter the thresholds for the various establishment and dissolution procedures, thereby enabling them to make changes in the light of experience of

applying those new thresholds.

## **Chapter 3: co-option of members of community councils**

### **Statutory guidance issued in accordance with section 117 of the Local Government (Wales) Measure 2011**

#### **Introduction**

The Aberystwyth Study highlighted concerns regarding the inclusiveness of some councils, the low level of contested elections and the procedures for consulting and communicating with local people.

In this context, Part 7 addresses the need to give public notice where vacancies in community council membership are to be filled by co-option, which is of considerable significance as it can affect the extent to which individuals can participate in the democratic process.

#### **The Measure provisions**

The Measure requires that where a community council intends filling a vacancy by co-option, the council must give public notice of the co-option opportunity.

This requirement applies to:

- the power of members of a community council to co-opt a person to fill a vacancy in the membership of the council in the event of insufficient nominations to fill vacancies in respect of which an election is held, as

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provided under section 21(2)(a) of the Representation of the People Act 1985 ("the 1985 Act")

- any power or duty of a community council to co-opt a person to fill a casual vacancy in the membership of the council under rules made under section 36A of the 1983 Act

The Measure requires that notice must be given:

- in the case of vacancy unfilled at an election, by 1 of the members authorised by the council for that purpose
- in the case of a casual vacancy, by the community council

The general provisions in section 232 of the 1972 Act relating to public notices apply. These require that notice shall be given:

- by posting the notice in some conspicuous place or places within the council's area
- in such other manner, if any, as appears to the council to be desirable for giving publicity to the notice
- where a local authority is based in Wales, notices must also be published electronically (this follows an amendment made by the 2021 Act)

The 2021 Act also enables Welsh Ministers by regulation, to make further or different provision about how public notices are required to be given to local authorities in Wales.

The notice must contain:

- contact details of an individual from whom further information about the vacancy and the process for selecting a person may be obtained
- such other information as the members or community council considers appropriate
- such other information as is required to be included by any regulations made

the Welsh Ministers

In exercising the above functions, the members of a community council, and community councils, must have regard to the following statutory guidance

## **Other relevant statutory provisions: co-option to fill a vacancy following election and co-option to fill a casual vacancy**

Section 21 of the 1985 Act provides that, unless the number of newly elected members of the community council is less than constitutes a quorum for meetings of the council, 'those members may co-opt any person or persons to fill the vacancy or vacancies remaining unfilled'.

The 1985 Act goes on to provide that the county / county borough council for the area may do anything necessary for the proper holding of an election in relation to any vacancies which are not so filled. A county / county borough council may not exercise this power before the expiry of 35 days from the date of the ordinary elections (see section 21(2), 1985 Act). The duty on the returning officer in section 39(1) of the 1983 Act to hold an election within 35 days does not apply in this instance (see: section 21(2)(c), 1985 Act).

Section 89(6) of the 1972 Act provides that a casual vacancy among community councillors shall be filled by election or by the community council in accordance with rules made under section 36A of the 1983 Act.

Rule 5 of the Local Elections (Communities) (Wales) Rules 2021/1460 sets out the relevant rules for the filling of casual vacancies in the office of community councillor in Wales.

If a request for an election is made by 10 electors (either as a group or as individuals) within fourteen days beginning with the day after public notice of the

vacancy is given, then an election must be held before the end of the period of 60 days beginning with the day on which public notice of the vacancy was given (except where the vacancy is during the councillor's final 6 months). If there is 1 candidate for 1 vacancy, this candidate is elected unopposed.

If there is no request for an election, as soon as practicable after the end of the period of 14 days beginning the day after public notice of the vacancy is given, the community council:

- may co-opt a person to fill the vacancy where the vacancy has occurred during the councillor's final 6 months
- otherwise, must co-opt a person to fill the vacancy

## Statutory guidance

This statutory guidance has been issued by the Welsh Ministers in exercise of their powers under section 117 of the Measure. By virtue of section 117(1) of the Measure, the members of a community council and community councils must have regard to this guidance in respect of the issuing of public notice where vacancies in community council membership are to be filled by co-option.

It has long been accepted good practice that opportunities for co-option onto community councils are advertised openly within the local community. This avoids the perception, whether warranted or not, that community councils are 'closed shops' populated by the 'favoured few'. It is important that councils are representative of the communities that they serve and the Welsh Government has taken steps on a number of fronts to encourage greater diversity amongst those standing for office. This includes provisions in the Measure which require principal councils to collect information on candidates standing for election to principal and community councils.

The Welsh Government would, of course, prefer to see all vacancies on



community councils filled through elections or by-elections whenever possible. However, co-option is a valid means of filling vacant seats when the need arises.

The Measure sets out minimum requirements for giving notice in relation to the filling of vacancies through co-option. However, in considering where and how to give notice, councils should have regard to the need to reach out to as wide a range of persons within their community as possible.

In particular, community councils should consider how best to reach, and proactively seek to engage, those groups who traditionally might be reluctant to seek office, or who are often underrepresented within the democratic system. All public notices and information must be in Plain English and Cymraeg Clir to overcome any barriers relating to the use of complicated language.

Community councils will wish to consider the most appropriate and cost-effective means of publicising opportunities for co-option, but the placing of a notice on the council's notice board alone is unlikely to be adequate in most cases. This may include promotion of co-option on council websites; councillors' or the council's Facebook page or Twitter feeds, letters to local organisations, as well as through the local press and other mechanisms such as local radio. Section 232 of the 1972 Act applies to the giving of notice under section 116(3) (a) and (b), which following amendment by the 2021 Act, requires notices to also be published electronically.

## **Co-option to fill a vacancy following an election**

In view of the wording used in section 21(2) of the 1985 Act, section 116(3)(a) of the Measure provides that the notice of the council's intention to co-opt a person or persons is to be given by one of the members authorised by a majority of the other members of the community council for that purpose. Whilst this could be any member, councils may consider it appropriate for the notice to be in the

name of the chair of the community council. Consideration of the matter would need to be amongst the first business of the new council at its annual meeting following the elections.

## **Co-option to fill a casual vacancy**

A casual vacancy can arise for several reasons, including resignation or failure to accept office. The vacancy is automatic and does not need to be declared. Public notice of a casual vacancy must be given as soon as practicable after the date on which the vacancy is deemed to have occurred (see section 87 of the 1972 Act date of casual vacancies), to give the community the opportunity to nominate candidates to represent them on the council. Community councils must have regard to paragraph 3.20 of this guidance when determining how to give notice.

## **Chapter 4: appointment of community youth representatives**

### **Statutory guidance issued in accordance with section 120 of the Local Government (Wales) Measure 2011**

#### **Introduction**

The Aberystwyth Study identified that the composition of community councils in Wales did not proportionately reflect the composition of the population as a whole. In particular, the study identified a need to engage with young people, both to gain their input into the areas of the councils' responsibilities which affect them and to encourage them to further participate in local government when

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they are old enough to stand for election.

Chapter 4 of Part 7 of the Measure enables community councils to appoint up to two individuals to act as community youth representatives. It addresses the need to give notice of the intention to appoint a community youth representative to the public; the head teacher or proprietor of any school with premises in the area; and the principal and governing body of any further or higher education establishment with premises in the area.

## The Measure provisions

The Measure does not require community councils to appoint youth representatives but sets out what they are required to do if they choose to do so. These requirements ensure that, when the decision is made to appoint youth representatives, the opportunity to become a youth representative is made available to all eligible young people in the community. The requirements to give notice and information about the appointment of youth representatives also help parents, guardians and education professionals to best support young people in their campaign for election and in their work with the council after election.

A community council may appoint no more than two individuals to act at any one time as community youth representatives. The Measure defines a “community youth representative” as an individual who:

- is over the age of 15 but under the age of 26
- is considered by the community council to be suitable to represent the interests of individuals under the age of 26 who live, work or receive education or training in the community area

Youth representatives do not necessarily have to live, work or receive education or training in the community area themselves, provided the council considers them suitable. This may be particularly applicable where a neighbouring

community does not have a community council.

A community council may not appoint any individual as a youth representative unless they have complied with the notice requirements in section 119 of the Measure. Under section 119, councils are required to give notice in accordance with the requirements of section 232 of the 1972 Act, modified as follows:

- by posting the notice in some conspicuous place or places within the council's area. Following changes made by the 2021 Act, where the local authority is in Wales, the notice must also be published electronically
- by giving notice to the head teacher and proprietor of any school which has any part of its premises situated in the area of the community council
- by giving notice to the principal and governing body of any institution of further or higher education which has any part of its premises situated in the area of the community council
- by giving notice in any other manner that appears desirable to the community council for ensuring that as many eligible young people as possible are aware of the intention to appoint youth representatives

The public notice must contain the following information:

- the contact details of an individual from whom further information about the appointment of youth representatives, and the process of their appointment, may be obtained
- any other information the community council considers appropriate
- any other information required to be included in the notice by any regulations made by the Welsh Ministers

## Statutory guidance

This statutory guidance has been issued by Welsh Ministers in exercise of their powers under section 120 of the Measure.

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By virtue of section 120(1) of the Measure, a community council must have regard to this guidance in exercising their powers to appoint community youth representatives.

The Measure sets out minimum requirements for giving notice in relation to the appointment of youth representatives. However, in considering where and how to give notice, councils should have regard to the need to reach out to as wide a range of young persons within their community as possible. In addition to giving notice to educational establishments as required by the Measure, councils should consider whether there are other youth organisations in the area which should also be provided with notice to enable the information to reach a broad and diverse range of young people.

It is for community councils to determine the selection process, the terms of appointment, and the nature of the role that youth representatives will play (ensuring compliance with relevant **equality legislation**). The latter might include, for example, participation in relation to the consideration of specific facilities for young people, or it could extend to providing a “youth view” on all matters before the council.

Although these provisions in the Measure are specifically aimed at encouraging the involvement of young people as community council representatives, they do not preclude the council’s use of other methods of engaging young people such as youth councils and other youth fora.

Community youth representatives are not members of the community council that appoints them and, consequently, they may not vote on council matters.

Welsh Ministers have powers to provide through regulations that community youth representatives are to be treated as members of the council for prescribed purposes. There is currently no intention to make such regulations, but this will be kept under review.

It should be noted that individuals are eligible to become full community councillors from the age of 18. Individuals between the ages of 18 and 26 who are elected or co-opted as community councillors must assume the full duties and privileges of a councillor and must represent the interests of the whole community, not only young people. Therefore, individuals between the ages of 18 and 26 who become community councillors, either through election or co-option, cannot also be community youth representatives.

## **Disclosure and Barring Service checks (formerly Criminal Records Bureau checks)**

The Criminal Records Bureau (CRB) and the Independent Safeguarding Authority were merged in December 2012. The Disclosure and Barring Service (DBS) was created in place of the 2 bodies. CRB checks are now referred to as DBS checks.

As the appointment of youth representatives and their role is at the discretion of the individual community or town council, it will be for the council itself to determine whether they are entitled to ask for a DBS check, and at what level, for councillors, clerks and staff working with youth representatives, given the individual circumstances of the council. If the role of the youth representatives change, the council would need to reconsider its position regarding DBS checks.

Community and town councils can obtain **further information about DBS checks** or by emailing the DBS at [customerservices@db.gov.uk](mailto:customerservices@db.gov.uk). In addition, the **Home Office has produced guidance** on eligibility for DBS checks.

# Chapter 5: reviews of community areas and electoral arrangements

## Introduction

The 1972 Act placed a duty on principal councils to keep the whole of their area under review for the purpose of considering whether to make recommendations to the Local Democracy and Boundary Commission for Wales (LDBCW) with respect to the constitution, abolition or alteration of communities. However, there were no timescales in the 1972 Act regarding the regularity of such reviews.

In addition, principal councils had a duty to keep under review the electoral arrangements for the communities in their area for the purpose of examining the number of councillors within each community area and, as appropriate, their distribution within community wards, and considering whether to make substantive changes to those arrangements. Again, there were no timescales regarding the regularity of these reviews.

To address these issues, Chapter 5 of Part 7 of the Measure introduced provisions specifying timescales within which principal councils were required to review their community areas and report to the LDBCW.

## The Measure provisions

The Measure included provisions relating to the review of community areas and electoral arrangements. These have since been replaced by provisions within the 2013 Act, the detail of which is set out below.

## Local Government (Democracy) (Wales) Act 2013

The 2013 Act includes provisions relating to electoral arrangement reviews and the review of communities. The Act renames the Local Government Boundary Commission for Wales as the Local Democracy and Boundary Commission for Wales (LDBCW) and that term, in abbreviated form, is used below.

Section 22 of the 2013 Act places a duty on principal councils to monitor the communities in their area, and the electoral arrangements of such communities, for the purpose of considering whether it is appropriate to make or recommend changes. In doing so, principal councils must have regard to the LDBCW timetable for reviews of principal areas, must undertake such reviews as are required, directed by the Welsh Ministers, or considered necessary, and must seek to ensure effective and convenient local government. Principal councils must publish a report setting out how it has complied with this duty and send it to the LDBCW in respect of each reporting period (a period of 10 years).

### Principal council reviews of community areas

The 2013 Act gives principal councils powers to review one or more communities in its area. It can do so of its own initiative or at the request of a community meeting in its area (save where doing so would impede the proper exercise of its functions). It can make recommendations as to community boundary changes and any consequential changes to the community council or electoral arrangements of the community under review, or the principal area.

The LDBCW may also undertake community area reviews, either (i) by agreement with and on behalf of the principal council, (ii) where the LDBCW does not/cannot agree with a principal council's recommendations, (iii) when it considers a principal council's review was not carried out in accordance with the 2013 Act or is defective in some material way, or (iv) where a principal council



has not complied with a direction from the Welsh Ministers to undertake a review. The LDBCW may recover the costs of undertaking such a review from the principal council if a review has been undertaken by them as a result of (iii) or (iv) above.

## **Principal council reviews of electoral arrangements**

The LDBCW must review the electoral arrangements for each principal area at least once in every 10 year review period, and as part of these reviews may recommend changes to the electoral arrangements for the principal area being reviewed, and any consequential change to community boundaries or electoral arrangements. No final report or an electoral arrangements review can be published/undertaken during the 9 month period preceding the day of an ordinary council election, to ensure that any changes can be implemented in good time for any forthcoming election.

The 2013 Act gives principal councils powers to review and make recommendations regarding the electoral arrangements for a community. The 2013 Act sets out at section 33 the matters a principal council must have regard to when undertaking such reviews. The LDBCW may undertake reviews of community areas on behalf of principal councils and, where this is done due to considering the principal council's review to be non-compliant with the 2013 Act or defective, the LDBCW may recover costs from the principal council.

The 2013 Act sets out the procedure for undertaking of reviews by principal councils and the LDBCW. It should be noted that, irrespective of who conducts the review, a draft report must be produced and published for consultation (the 2013 Act specifies mandatory consultees), and thereafter a final report which takes into account any representations made on the draft report. The 2013 Act sets out procedures for implementation of recommendations by the Welsh Ministers, LDBCW or principal council.

Further details of the Act may be found on the [Senedd Cymru / Welsh Parliament website](#).

## Chapter 6: community councils' powers to promote Well-being repealed

### Introduction

The Local Government Act 2000 ('the 2000 Act') introduced the 'well-being power' under section 2 of the 2000 Act. This was repealed for all community councils when the provisions relating to the General Power of Competence were brought into force for eligible community and town councils on 5 May 2022. This followed the enactment of the 2021 Act. Statutory guidance on the 2021 Act and the General Power of Competence can be found on our [website](#).

Community councils can continue any initiative under the 'well-being power' which they started, and is ongoing, at the time this power was repealed. However, reliance on this power should stop when that activity is completed or a council resolves to become an eligible community council. As from 5 May 2022, nothing new may be started by the community council using the 'well-being power'.

## Chapter 7: grants to community councils

### Introduction

Section 31 of the Local Government Act 2003 provides a general power for the Welsh Ministers to pay a grant towards expenditure incurred by a principal

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council, i.e. a county or county borough council.

The bulk of community council income is received by means of a council tax precept under Section 41 of the Local Government Finance Act 1992. The developing role of community councils may create new demands on council finance outside the scope of the council tax precept. The Aberystwyth report recommended that the Welsh Government should examine possible alternative mechanisms for directly funding community councils, such as through the use of direct grants.

To this end, Chapter 7 of Part 7 enables Welsh Ministers to provide direct grant funding to community councils, akin to that which already exists in relation to principal councils.

## **The Measure provisions**

Section 129 of the Measure introduces a provision enabling Welsh Ministers to pay a grant to a community council towards expenditure incurred or to be incurred by a community council.

The amount of the grant paid, and the manner of the payment, would be determined by the Welsh Ministers. The grant may be paid subject to conditions covering, but not limited to, the use of the grant and the circumstances in which the whole or part of the grant must be repaid.

# Chapter 8: model charter agreements between local authorities and community councils

## Introduction

The Aberystwyth Study identified that the quality of relationships between principal councils and their community councils varied significantly, not only from county to county, but within different departments of a principal council and the community councils within their area. In addition, at the time only around two-fifths of community councils had any functions delegated to them by their principal council.

To address these matters, the Aberystwyth Study recommended that the Welsh Government should legislate to require all local authorities to produce a charter agreement with community councils in their areas, including procedures for the delegation of a specified range of functions to accredited community councils and outlining procedures for interaction between local authorities and community councils.

In this context, Chapter 8 of Part 7 introduces provisions allowing Welsh Ministers to introduce mandatory charters between principal councils and their community councils.

## The Measure provisions

The Measure enables the Welsh Ministers to, by order, set out a model charter agreement for use between a principal council and a community council for a community or communities within its area. A charter agreement in this context means a shared agreement describing the way in which the councils' respective functions will be exercised for the purpose of maintaining and improving co-

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operation between them.

In addition, the Welsh Ministers may, by direction, require local authorities and community councils to adopt this model charter. Such a direction may require the councils concerned to seek agreement as to how to exercise functions in accordance with all, or some, of the provisions of the model charter agreement as set out in the direction.

Under Section 132 of the Measure, the Welsh Ministers may issue statutory guidance. Local authorities must have due regard to this guidance when acting under a direction from the Welsh Ministers requiring the adoption of model charters.

## Current position

The Welsh Ministers endorse the principle of the recommendation of the Aberystwyth Study and strongly encourage the voluntary development of charter agreements as a means of establishing effective collaboration between principal councils and their community councils. The Welsh Ministers very much welcome the work that has taken place to date to develop and review charters where they already existed.

In response to the recommendation of the Aberystwyth Study, the Welsh Government developed and issued non-statutory guidance **A Shared Community Relationship building and charters for unitary authorities and community and town councils ('A Shared Community')** in 2008. This provides a resource pack of guidance and good practice to support both principal and community councils and includes a model charter that councils may choose to adopt. The Welsh Government has also worked closely with One Voice Wales and the Welsh Local Government Association to ensure that practical support is available to councils in taking charters forward.

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While the Measure enables Welsh Ministers to require principal and community councils to adopt a model charter, there is no intention at present to use this power. Charters remain optional; it is important that a charter is only in place because both the principal council and their community council are fully committed to it. The Welsh Government recognises that charter agreements may not always be the most desirable option and emphasises the importance of honest, open dialogue between a principal council and their community councils to identify the most appropriate way for them to work in their area.

Where a decision has been taken to develop a charter agreement it is recommended that local authorities and community councils have regard to the guidance contained within A Shared Community, available from the Welsh Government website.

The Welsh Government continues to monitor the progress made by principal councils in developing charter agreements and the Welsh Ministers may re-visit the decision regarding the use of the provisions contained in Chapter 8 if deemed necessary.

While the Welsh Government believes that there is a role for community councils in delivering a range of services in their local areas, it believes that delegation of services is a voluntary option and must be the result of local agreement between the local authority and the community or town council. Any delegation of services should be based upon improving local service delivery, whilst maintaining or improving value for money. While a charter agreement can provide a framework for the delegation of services, there is no direct link between the 2; a charter agreement is not necessarily an agreement for the delegation of services to a community council.

## Chapter 9: schemes for the accreditation of quality in community Government, repealed

The provisions for a scheme under which Welsh Ministers may grant accreditation to a community council, originally introduced by the 2011 Measure, were repealed by the 2021 Act.

Instead, the criteria for accreditation of quality in community government envisaged in the 2011 Measure form the basis of the criteria for eligibility to use the General Power of Competence in the 2021 Act. The need for councils to pass a resolution as to their eligibility against an objective set of criteria provides a means of assuring the quality of community councils and incentivising councils to improve.

More on the General Power of Competence can be found in the [statutory guidance](#).

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