

10 Mar 21

## LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021

### Introduction

1. The Local Government and Elections (Wales) Act 2021, hereafter called LGE21, is a wide ranging piece of legislation of considerable impact across Local Government.
2. Across 172 sections and 13 schedules that span 202 pages it is difficult to encompass all the topics covered, but they include:
  - a. electoral reform. Including votes for 16 and 17 year olds and foreign citizens resident in Wales, changes to voter registration and enabling a principal council to choose between the 'first past the post' or the 'single transferable vote' voting systems;
  - b. general power of competence for principal councils and eligible community councils;
  - c. reforming public participation in local democracy – livestreaming, e-petitions, remote attendance and other 'gains' from the CV regs;
  - d. the leadership of principal councils, including to encourage greater diversity amongst executive members and establishing a statutory position of chief executive;
  - e. Corporate Joint Committees (CJCs);
  - f. new systems of performance and governance based on self-assessment and peer review, including the consolidation of the Welsh Ministers' support and intervention powers;
  - g. powers to facilitate voluntary mergers of principal councils and restructuring a principal area;
  - h. local government finance including non-domestic rating and council tax;
  - i. miscellaneous provisions relating to: information sharing between regulators; abolition of community polls; fire and rescue authorities; the Local Democracy and Boundary Commission for Wales; and Public Service Boards.
3. The Act is [here](#) and a 597 page explanatory memorandum is very thorough and available [here](#).

### Aim

4. The aim of this document is to provide an introduction and overview of this key piece of legislation, set out the timetable of implementation, and start to identify likely actions required across the organisation accordingly.

### Subsequent Legislation

5. The Act is significant in size and only a handful of sections came into force immediately. The other elements will come into force through the use of subsequent legislation (commencement orders and regulations) over the course of the next year or so.
6. Appendix One contains the detail as far as it has been promulgated on when each section

will come into force. Those that are effective nlt 31 Mar have been coloured green given their imminence.

Matt Phillips

Appendices:

1. Breakdown of changes and possible actions.

## Appendix One

### BREAKDOWN OF CHANGES

| Section/<br>Memorandum<br>Para | Provision  | Comes into Force   | Actions/Responsibility/Notes  |
|--------------------------------|--|--|---|
| <b>Part 1 – Elections</b>      |  |  |   |
| 2<br>3.18-                     | Extending the right to vote to 16-17 year olds and qualifying foreign citizens           | <p>Entitlement to be registered as a Local Government Elector – 2 months after Royal Assent.</p> <p>Other provisions come into force 2 months after Royal Assent but do not take effect until 5 May 2022 and thereafter in respect of Local Government Elections and Local Referendum.</p> <p>20 March - Section 2(1) and (3) subject to section 3.</p> <p>Section 2(2) 5 May 2021</p> | <p>Returning Officer<br/>Dem Services<br/>Election Team</p> <p>Note – 16/17 year olds already allowed to vote in Senedd Elections following <a href="#">Senedd and Elections (Wales) Act 2020</a></p>   |
| 4                              | Promote awareness of registration of relevant young people and provide assistance        | 20 Mar 21  | As above as aligned with electoral commission campaign.   |
| 5-13<br>3.29-                  | Two voting systems.<br><br>Simple majority system and Single Transferable Voting system. | 6 May 2022   | <ul style="list-style-type: none"> <li>- Simple majority system to apply unless and until the Council changes the voting system for the first time.</li> <li>- Constitution to be updated to address procedure to be followed regarding a proposal to change the Council's voting system, in part reflecting that a resolution would be required before 15 November of the year that is 3 years before the year in which the next ordinary election of the Council is due to be held.</li> <li>- Clarification required on the restrictions at Section 12 on number of Councillors if Single Transferrable Voting system applies to the election of Councillors for a Principal Council, the number of Councillors for each Electoral Ward is to be no less than 3 but no more than 6.</li> </ul> |

|   |   |   |   |
|---|---|---|---|
| 14-17<br>3.37-                              | Change of electoral cycle for Principal and Community Councils, together with Elected Mayors from four years to five years and extension of power to Welsh Ministers to change election day in Wales  | 20 Mar 21 (and s13)   | Amendments to Council website<br>Amend reference in Constitution<br>Advise Members  |
| 18<br>3.41-                                 | Registration of Local Government Electors without application   | Dates to be appointed by Welsh Ministers  | Dem Services/Election Team  |
| 19-21<br>3.52-                              | Qualification and Disqualification for Election and being a member of a Local Authority   | Dates to be appointed by Welsh Ministers  | As above and with electoral commission guidance. Changes the rules so that there are situations whereby the employee of a LA may stand for election. (3.54)   |
| 22  | Translation of Documents  | 20 Mar 21 to take effect for LG elections on/after 5 May 22   |   |
| <b>Part 2 – General Power of Competence</b> |   |   |   |
| 24-37<br>3.71-                              | Defines the power, defines qualifying local authority as a Principal Council and an 'eligible community council, including limits on charging in exercise of general power, limits on doing things for commercial purposes in exercise of general power, powers to make | Draft General Power of Competence (Commercial Purpose) (Conditions) (Wales) Regulations 2021 to be despatched for consultation Mar 21<br><br>GPOC to come into power Nov 21 | I'm not going to put too much detail here as I think there will be a lot more forthcoming.<br><br>It will have an impact on all areas of MCC potentially in terms of how business is conducted, investments made, contracts entered into and procurement conducted.<br><br>This is not necessarily the silver bullet it was hailed as in England 10 years ago but its utility is and will grow. |

|  |  |           |   |
|--|--|-----------|---|
|  | supplementary provisions by Welsh Ministers  |           |   |
| <b>Part 3 – Promoting Access to Local Government</b> |  |           |   |
| 39- 41<br>3.91                                       | Public Participation<br><br>Duty on MCC to encourage participation in decision making at Council and partners (eg community councils).<br><br>Duty to publish a strategy on the above. | 5 May 22  | Dem Services?<br><br>Develop a Public Participation Strategy on how the Council proposes to comply with this duty – promoting awareness of its functions, how to become a member and what membership entails; ways of promoting and facilitating processes by which local people may made representation about a decision before and after it is made, bringing the public’s views to the attention of Scrutiny Committee and promoting awareness of the benefits of social media as a means to communicate.<br><br>Public participation and strategy to be reviewed as soon as practicable following each ordinary election. |
| 42<br>3.92   | Petition Scheme  | 5 May 22  | To include e-petitions on the basis of best practice across LAs.  |
| 43   | Publish electronic and postal address for each Cllr  | 5 May 22  |   |
| 45<br>3.94-  | Constitution Guides  | 5 May 22  | Already set out within constitution so additional action for MO.  |
| 46<br>3.98   | Access to Meetings<br><br>Webcasting   | 5 May 22  | Dem Services and MO involved in working group on this.<br><br>Currently the most open LA in Wales as all meetings livestreamed. However, additional obligations for audio/visual impairment and live translation may turn this into something much more difficult. And so expensive.  |
| 47-48<br>3.101-                                      | Attendance   | 1 May 21  | Remote Attendance - Effectively removes the previous barriers (30% physical attendance etc).<br>Community Council elements at s48 (5 May 22)  |
| 49<br>3.105-   | Notice and Documents for meetings  | 1 May 21  | Relaxation to reflect use of electronic means   |
| 50-51  | Meetings and Documents   | 21 Jan 21 | Basically gives Ministers to draft secondary legislation to tweak how this operates for LG and Community Councils   |

|   |   |  |  |
|---|---|--|--|
|   | Regulations   |  |  |
| 52  | Annual Reports by Town and Community Councils; to give opportunity for the public to speak at meetings<br>Publish an annual report about their priorities etc<br>Publish a training plan. | 1 Apr 22   | <b>This is a matter for Town and Community Councils:</b><br><br><ul style="list-style-type: none"> <li>- Annual Report to be prepared and published as soon as reasonably practicable after the end of each financial year</li> <li>- Raise awareness of the need to report on priorities, activities and achievements during the previous financial year.</li> <li>- Awareness raising report to be taken to Community Liaison Committee.</li> <li>- To raise awareness in Monitoring Officer and Clerks meetings.</li> <li>- Copy of Action Plan to be provided to all Town and Community Councils.</li> </ul> |
| <b>Part 4 – LA Executives, Members, Officers and Committees</b> |   |  |  |
| 54<br>3.110   | Chief Executive<br><br>Becomes a Statutory Post incorporating HOPS with defined duties on performance   | 5 May 22 (and s 56)                              | Note – <a href="#">s55 20 Mar 21</a>   |
| 57<br>3.117   | Assistants to the Executive   | 5 May 22   | Not voting members of Cabinet though. These are development roles effectively.   |
| 58-59<br>3.119  | Job-sharing by Executive  | s58 - 5 May 22<br>s59 – <a href="#">5 Mar 21</a> | Can exceed max number of Cabinet members to do so (10).<br>Need to amend constitution,   |
| 60  | Job-sharing in Council  | <a href="#">20 Mar 21</a>                        | WG to introduce Regulations specific to:<br><br><ul style="list-style-type: none"> <li>- Chair of a Principal Council</li> <li>- Vice Chair of a Principal Council</li> <li>- Presiding Member of a Principal Council</li> <li>- Deputy Presiding Member of a Principal Council</li> <li>- Chair of a Committee or sub Committee of a Principal Council</li> <li>- Vice Chair or Deputy Chair of a Committee or sub Committee of a</li> </ul>  |

|                 |  |          |   |
|-----------------|--|----------|---|
|                 |  |          | Principal Council<br>- Deputy Mayor in a Mayor and Cabinet Executive  |
| 61<br>3.121     | Family Absence   | 1 Apr 21 | Aims to keep the ability for Cllrs to take leave owing to family matters in step with employment law.<br>Need to review Constitution and practices<br>Const amended and new regs have since come in so further amendment required |
| 62<br>3.124-    | Members Conduct – Political Group Leaders to promote and maintain high standards of conduct<br><br>Standards Committee charged with monitoring performance and advising, training etc as necessary | 5 May 22 | Leaders must take reasonable steps to promote good conduct and cooperate with the Standards Committee<br><br>Action MO with SC and Gp Leaders   |
| 63              | Standards Committee to make an Annual Report to Council on the above and their general functions   | 5 May 22 | MO with SC  |
| 64<br>3.130-    | PSOW powers  | TBC      | Ability to carry out investigations   |
| 65-66<br>3.133- | Overview and Scrutiny Committees:<br><br>- access to information<br>- power to require the appointment of joint overview and scrutiny  | 5 May 22 | Is there an action with CCR here?   |

|  |   |   |   |
|--|---|---|---|
|  | committees  |   |   |
| 67<br>3.136-   | Training of Community Councils  | 5 May 22  | <p>This is a matter for Town and Community Councils:</p> <ul style="list-style-type: none"> <li>• Raise awareness of the need to report on priorities, activities and achievements during the previous financial year.</li> <li>• Awareness raising report to be taken to Community Liaison Committee.</li> <li>• To raise awareness in Monitoring Officer and Clerks meetings.</li> <li>• Share information with Town and Community Councils</li> <li>• First training plan to be made no later than 6 months after Section 67 comes into force.</li> <li>• With new training plans no later than 3 months after each ordinary election and review from time to time.</li> </ul> |
| <b>Part 5 – Collaborative Working by Principal Councils (CJCs)</b> |   |   |   |
| 68-88<br>3.140-  | Various relating to CJCs  | 21 Jan 21   | Covered in Detail in Other Documents.   |
| <b>Part 6 – Performance and Governance of Principal Councils</b>   |   |   |   |
| 89-94<br>3.158-  | Duty to review performance and consult local people, convene a panel to do so and produce a report annually for Council and need to respond | <p>The majority of chapters 1, 3 and 6 of Part 6 in force on 1 April 2021</p> <p>First self-assessment report on FY 21/22 to be reported in 22</p> <p>Panel assessment and duty to respond - 5 May 22</p> | <p>Covered in detail by work undertaken by Richard Jones and Emma Davies</p> <p>WG will establish supplementary regulations</p>   |
| 95-101   | Power of AG to carry out special inspection of LA if deems necessary  | s95 - 20 Mar 21   | Report submitted to Governance and Audit Committee and duty on Council to respond.  |

|  |  |   |   |
|--|--|---|---|
| 102-112  | Ability of WG to provide support, direct another LA to provide support, intervene, direct cooperation with provision of support, direct a specific step(s), assume a responsibility of a LA to a Minister, | TBC – WG  | There is very little detail or commentary on this in the explanatory memorandum.  |
| 115-118<br>3.169-  | Change of name and function of Audit Committee<br><br>Governance and Audit Committee   | s115 – 1 Apr 21<br><br>s116&118 – May 22  | Actions:<br><br>- Chair of G&A must be a lay member<br>- One third of Members to be lay persons<br>- Deputy Chair must not be a member of the Local Authority's executive or an assistant to its executive. |
| 119-120<br>3.171   | Coordination between Regulators  | TBC – WG  | Led by AG and required to produce a timetable   |
| <b>Part 7 – Mergers and Restructuring of Principal Areas</b> |  |   |   |
| 121-150<br>3.172-  | Voluntary mergers, local discretion and conditions associated with Welsh Minister making restructuring regulations and remuneration arrangements for new Principal Councils                                | Largely immediate with some elements TBC - WG   | Ability for LAs to carry out voluntary mergers – setting out the steps and requirements.  |
| <b>Part 8 – Local Government Finance</b>                     |  |   |   |
| 151<br>3.193-  | Powers to require information relating to hereditaments, information relevant to determining liability for non-domestic rate,  | Sections 152, 154-156 and 158<br>20th March 2021<br><br>1 April 2021<br>(Sections 151, 153 and 157) |   |

|                          |  |           |   |
|--------------------------|--|-----------|---|
|                          | <p>powers to inspect property, amendment to multipliers, amendments to the Local Government Finance Act 1988, granting Welsh Ministers powers to make regulations on joint and several liability to pay Council tax.</p> <ul style="list-style-type: none"> <li>• Removal of Power to provide for Imprisonment of Council Tax Debtors</li> </ul> |           |   |
| <b>Part 9 - Misc</b>     |  |           |   |
| 159-160<br>3.205         | Information Sharing  | Immediate | Allows sharing predominantly between AG, Estyn and Ministers for the purposes of their roles. |
| 161<br>3.208             | Head of Democratic Services  | 5 May 22  | Must be treated as a Chief Officer<br>Can now be the MO.                                      |
| 162<br>3.212-            | Abolition of Community Polls   | 5 May 22  |   |
| 163-164<br>3.220         | Local Democracy and Boundary Commission  |           | BC can appoint own CEx (not WG)<br>WG can direct BC to not conduct a review or stop a review. |
| 165<br>3.225             | Public Service Boards can merge and now de-merge   | 20 Mar 21 |   |
| 166-169<br>3.227         | Fire and Rescue Authorities<br><br>National Parks  |           |   |
| <b>Part 10 – General</b> |  |           |   |

| <b>Schedules</b> |  |
|------------------|--|
| 1                | Initial reviews of electoral arrangements etc  |
| 2                | Minor and consequential amendments relating to elections   |
| 3                | Amendments relating to general power of competence relating to Principal Councils and Town and Community Councils.   |
| 4                | Notice of Local Authority meetings, access to documents and attendance at meetings.  |
| 5                | Consequential amendments relating to Chief Executives  |
| 6                | Consequential amendments etc relating to assistance to Local Authority Executives  |
| 7                | Job-sharing by Executive Leaders and Executive Members   |
| 8                | Conduct of Local Government Members: investigations by the Public Services Ombudsman for Wales   |
| 9                | Amendments related to CJs including creation of strategic planning functions for certain corporate joint committees and repeal of powers to establish strategic planning panels and repeal of power to establish joint transport authorities |
| 10               | Consequential amendments relating to renaming of Principal Council for the Committees.   |
| 11               | Transition Committees of merging Councils and restructuring Councils.  |
| 12               | Restraints on transactions and recruitment etc by merging Councils and restructuring Councils  |
| 13               | Abolition of polls consequent of community meetings under the Local Government Act 1972  |
| 14               | Consequential amendments relating to merger and de-merger of Public Services Board   |