

Local Government and Elections (Wales) Bill: Bill Summary

March 2020



The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

An electronic copy of this document can be found on the National Assembly website: www.assembly.wales/research

Copies of this document can also be obtained in accessible formats including Braille, large print, audio or hard copy from:

National Assembly for Wales
Tŷ Hywel
Cardiff Bay
CF99 1NA

Tel: **0300 200 6296**

Email: Osian.Bowyer@assembly.wales

Twitter: [@SeneddResearch](https://twitter.com/SeneddResearch)

Blog: SeneddResearch.blog

LinkedIn: [Senedd Research, National Assembly for Wales](https://www.linkedin.com/company/senedd-research-national-assembly-for-wales)

© **National Assembly for Wales Commission Copyright 2020**

The text of this document may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading or derogatory context. The material must be acknowledged as copyright of the National Assembly for Wales Commission and the title of the document specified.

Local Government and Elections (Wales) Bill: Bill Summary

March 2020

Author:
Osian Bowyer



Contents

1. Background and Overview to the Bill	1
2. Purpose and intended effect of the Bill	2
3. Part 1 - Elections	3
3.1. Section 2 - Extension of right to vote in local government elections	3
3.2. Section 4 - Duty to promote awareness and provide assistance	4
3.3. Section 5-10 - Two voting systems	5
3.4. Section 11: Initial review by the Local Democracy and Boundary Commission for Wales	6
3.5. Sections 14-16: Change of electoral cycle from four to five year terms for principal councils and community councils.....	6
3.6. Section 17: Extension of power to change ordinary day of local elections in Wales	6
3.7. Section 18-21: Database of electoral registration, payments and breach of duty	7
3.8. Section 22: Registration of local government electors without application	7
3.9. Section 23 and 24: Qualification and disqualification for election or holding office - Candidacy.....	8
3.10. Section 26 and 27: Welsh Ministers' discretion to introduce election pilot schemes and guidance	8
3.11. Section 28: Returning Officers	9

4. Part 2 – General Power of Competence..... 10

4.1. Chapter 1: The General Power..... 11

4.2. Section 31: Local authority’s general power of competence 11

4.3. Section 32: Boundaries of the general power 11

4.4. Section 33: Limits on charging 11

4.5. Section 34: Limits on doing things for commercial purpose.....12

4.6. Section 35: Powers to make supplementary provisions.....12

4.7. Chapter 2: Eligible Community Councils.....12

4.8. Section 37: Becoming an eligible community council13

4.9. Section 38-40: Continuing to be and ceasing to be an eligible community council.....14

4.10. Section 41: Common community councils established after this Act is passed14

4.11. Section 44: Amendments relating to this Chapter14

5. Part 3 – Promoting Access to Local Government.....16

5.1. Section 46-48: Duty to encourage participation..... 16

5.2. Section 49: Duty to make a petition scheme.....17

5.3. Section 50: Duty on principal councils to publish official addresses..... 18

5.4. Section 52: Principal councils’ duty to publish constitution and constitution guide 18

5.5. Section 53: Electronic broadcast of meetings of certain local authorities..... 18

5.6. Section 54: Conditions for remote attendance of

members of local authorities.....	19
5.7. Section 55: Participation at meetings of community councils	20
5.8. Section 57: Annual Reports by Community Councils.....	20

6. Part 4 – Local Authority Executives, Members, Officers and Committees 22

6.1. Section 59-62: Appointment of a chief executive, performance management and remuneration	22
6.2. Section 63: Appointment of assistants to executives	23
6.3. Section 64: Job-sharing: executive leaders and executive members	23
6.4. Section 66: Family absence for members of local authorities.....	24
6.5. Section 67: Duties of leaders of political groups in relation to standards of conduct	24
6.6. Section 69: Certain investigations by the Public Services Ombudsman for Wales	25
6.7. Section 71: Power to require authorities to appoint joint overview and scrutiny committees.....	25
6.8. Section 72: Community council training plans.....	26

7. Part 5 – Collaborative Working by Principal Councils 27

7.1. Section 75: Application by principal councils to establish a corporate joint committee.....	27
7.2. Section 76: Consultation before making joint committee application.....	27

7.3. Section 77-78: Regulations for establishing a joint committee and conditions to be met	28
7.4. Section 79-80: Establishing corporate joint committees where no request has been made and conditions to be met	28
7.5. Sections 81-87: Further provisions relating to corporate joint committees and regulations	29

8. Part 6 – Performance and Governance of Principal Councils

8.1. Sections 88 and 90: Duty of principal council to keep its performance under review and report on its performance	30
8.2. Section 89: Duty to consult local people etc. on performance	31
8.3. Section 91-93: Duty on principal council to arrange for panel performance assessment, respond to a panel report, and supplementary regulations.....	31
8.4. Section 94: Power of Auditor General to carry out a special inspection	32
8.5. Section 95-96: Duty on principal council and Welsh Ministers to respond to AGW recommendations	32
8.6. Section 97-100: Auditor General’s power of entry, inspection and fees.....	33
8.7. Section 101-106: Power of direction, intervention and support provided by Welsh Ministers	33
8.8. Section 108-110: Power of WM to add to list of persons to whom a report must be sent, to amend enactments, and issue guidance.....	34
8.9. Section 114 and 115: New name and function along with membership of governance and audit committee	34
8.10. Section 118 and 119: Coordination between regulators.....	35

9. Part 7 – Mergers and Restructuring of Principal Areas.....36

9.1. Chapter 1 – Voluntary Mergers of Principal Areas.....	36
9.2. Section 120: Merger applications	37
9.3. Section 121: Consultation before making a merger application.....	37
9.4. Section 122: Guidance about merger applications	37
9.5. Section 124: Shadow councils and shadow executives.....	38
9.6. Section 125 and 126: Voting system and elections.....	38
9.7. Chapter 2 – Restructuring of Principal Areas.....	38
9.8. Section 128-130: Conditions to be met, abolition requests and restructuring regulations.....	39
9.9. Section 131-133: Restructuring regulations – other specific matters to be included	39
9.10. Chapter 3 – Functions relating to Mergers and Restructuring	40
9.11. Section 135 and 136: Transition committees and restraint on transactions	40
9.12. Section 137: Reviews of electoral arrangements.....	41
9.13. Chapter 4 – Remuneration arrangements for new principal councils.....	41
9.14. Section 141-44: Directions to the Independent Remuneration Panel for Wales, panel reports and pay policy statements.....	41

10. Part 8 – Local Government Finance42

10.1.	Sections 149-151: Non-domestic rates avoidance	42
10.2.	Section 152: Non-domestic rates multiplier.....	43
10.3.	Section 154: Removal of power to provide for imprisonment of council tax debtors.....	44
11.	Part 9 - Miscellaneous	45
11.1.	Sections 157: Local authorities' Head of Democratic Services.....	45
11.2.	Section 161: Merging and demerging public services boards under the Well-being of Future Generations (Wales) Act 2015.....	45
11.3.	Sections 162 and 163: Fire and rescue authorities.....	46
12.	The Assembly's Consideration of the Bill.....	47
12.1.	Scrutiny of the Bill by the Equality, Local Government and Communities Committee	47
12.2.	Scrutiny of the Bill by other Assembly Committees	47

1. Background and Overview to the Bill

The current local government structure in Wales, consisting of 22 county and county borough councils (“principal councils”) was established in 1996 by the Local Government (Wales) Act 1994. The debate around the sustainability of the structure, and effectiveness of the framework for local decision making has continued ever since. Welsh Governments, past and present, have initiated numerous reports, commissions and white paper consultations, with the aim of reforming local government, strengthening democratic accountability and increasing diversity of representation.

Following publication of the ‘Williams Commission’ **recommendations**, (PDF 3.8MB) the Welsh Government of the Fourth Assembly attempted to move the ‘change agenda’ forward. A **draft Bill** was introduced that would pave the way for local authority mergers, provide councils with the general power of competence, and change the functions of councils and their Members. However, the anticipated introduction of a final Bill at the beginning of the Fifth Assembly did not materialise.

During 2018, the Welsh Government looked to restart the debate on local government reform with a **Green Paper consultation - Strengthening Local Government: Delivering for people**. It had also launched a consultation a year earlier on **Electoral Reform in Local Government** as part of a review into democratic arrangements and functions in Wales.

On 18 November 2019, the Welsh Government introduced the **Local Government and Elections (Wales) Bill** (“the Bill”) (PDF 1MB) along with the **Explanatory Memorandum** (“EM”) (5MB). The EM also incorporates the Regulatory Impact Assessment (“RIA”) and Explanatory Notes (“EN”).

The Minister for Housing and Local Government, Julie James AM, on introducing the Bill in **Plenary on 19 November 2019**, stated that the Welsh Government is “changing the governance framework for local government to better enable innovation, transparency and local ownership for driving up service delivery outcomes and standards across Wales”.

2. Purpose and intended effect of the Bill

The Local Government and Elections (Wales) Bill proposes to reform the legislative framework for local government electoral arrangements, democracy, performance and governance. The **explanatory memorandum** (as introduced) states that it seeks to provide local government with “new ways to support and serve their communities”, and to “reinvigorate local democracy in Wales.”

The Bill seeks to extend the franchise to 16 and 17 year-olds and foreign citizens legally resident in Wales for local government elections, and enables principal councils to choose the type of voting system used in local elections within their areas. The Bill also provides opportunities to pilot methods to increase participation in local democracy that “suits modern life and maximises accessibility for all”.

The Bill also aims to reform and strengthen local government accountability, performance and transparency in order to “deliver modern accessible, high quality public services”. It also has provisions that seek to increase public participation in local democracy, which the Welsh Ministers hope will **encourage greater diversity** in local government that better reflects communities served.

There are a number of provisions in the Bill which aim to facilitate **greater collaboration** between principal councils to ensure “more consistent and coherent regional working mechanisms”. These include a framework to facilitate **voluntary mergers**, or the restructuring of principal councils. And there are specific provisions relating to local government finance, specifically regarding council tax and non-domestic rates (business rates).

The Bill also makes provision for Principal Councils and eligible Community Councils to be given the **general power of competence**. The provisions enable qualifying councils to “act in their communities’ best interests” without the need to identify specific powers to undertake a particular activity. Such a power has been in applied in England since 2012.

3. Part 1 - Elections

In January 2017, the Assembly gained legislative competence in relation to the administration of the Senedd and local government elections. This change provided an opportunity for the Welsh Ministers to review the framework of legislation that applies to local elections in Wales.

Part 1 of the Bill, according to the Explanatory Memorandum (EM), aims to “reinvigorate local democracy in Wales”. It introduces provisions that will extend the franchise to include votes for 16 and 17-year-olds and for foreign citizens legally resident in Wales. It also introduces the option for principal councils to choose the voting system it wishes to use – first past the post system (FPTP) or single transferable vote (STV).

There are also a number of provisions within Part 1 of the Bill that relate to the registration of electors, electoral cycles, proposals for election pilot schemes and meeting the expenditure of returning officers.

3.1. Section 2 - Extension of right to vote in local government elections

Votes for 16 and 17 year-olds

1. The Welsh Government states in its Explanatory Memorandum (EM) that the “case for enabling 16 and 17-year-olds to vote has been well-rehearsed”, most recently in relation to the Senedd and Elections (Wales) Act. This Act includes provisions that extend the franchise for 16 and 17-year-olds in Senedd elections.
2. The EM also states that 16 and 17-year-olds are far more “exposed to some form of political education” compared to previous generations, and that citizenship and political education are “important parts of the curriculum”. The EM states that learners are offered opportunities to study “politics and current affairs” via Personal and Social Education (PSE) and the Welsh Baccalaureate.

Votes for foreign citizens legally resident in Wales

3. The Welsh Government states that it sees “no reasons why a person who is resident in Wales and who is lawfully in the country should not be eligible to register to vote in Welsh local government elections, irrespective of their nationality”. The Welsh Government is of the view that service users and contributors to council funds “should be able to help appoint those who represent them”.

4. The matter of extending the franchise to foreign citizens living in Wales was also a matter of debate during the passage of the Senedd and Elections (Wales) Bill. The Welsh Government made amendment to that Bill at stage 2, to extend the right to vote for foreign citizens legally resident in Wales at Senedd elections. However, some Assembly Members during the stage 3 debate on that Bill highlighted the limited scrutiny and debate on the issue. Suzy Davies AM during the **Plenary debate on 13 November 2019** stated of the amendment:

“So, we’ve got this in front of us now without anything like scrutinised evidence in favour of extending the franchise to resident foreign nationals. I would have liked to hear that evidence, as we did in favour of votes for prisoners, but none has been presented to this Assembly—no questions of how to reach these new voters, how to ensure that they understand their new rights.”

5. Local government will face some additional costs as a result of extending the franchise. One cost that principal councils will need to meet as a result of this Bill is the cost of registering foreign citizens legally resident in Wales. The EM estimates this would cost a total of £40,000 annually across all 22 authorities.
6. There will also be additional costs for principal councils for the electoral administration of the expanded local government electorate. This is the cost of mounting the election and counting the votes. The Welsh Government estimate that there’ll be a cost of £227,000 (across all 22 authorities) for each local government electoral cycle.

3.2. Section 4 – Duty to promote awareness and provide assistance

7. In line with the new provisions to extend the franchise to 16 and 17 year-olds for local government elections in Wales, principal councils will be required to promote and provide support to this cohort about registering to vote. In order to do this, the Welsh Government anticipates that each council will need to allocate approximately 50 per cent of an officer at grade 43 (senior officer or above) to undertake ‘relevant activities’. It is estimated that the total cost of this provision for principal councils will be around £1.74 million between 2020-2022.
8. While principal councils have a duty to promote awareness among young people regarding registering to vote, this will largely be achieved through schools. There is a cohort that will not be captured via this method, which includes young people not in education, employment or in training. There is no specific provision that places a duty on the Electoral Commission for Wales to promote awareness among this cohort. However, the EM notes that it is the

Welsh Government's intention that the Electoral Commission undertake public awareness campaigns and make materials available to all young people and the adults who work with them. The RIA estimates a one-off costs of £112,000 for the Electoral Commission to undertake this work.

9. Despite the extension of the right to vote for foreign citizens legally resident in Wales, section 4 does not place a duty on principal councils to promote awareness and provide support for this cohort.

3.3. Section 5-10 - Two voting systems

10. Sections 5 to 10 of the Bill makes provisions that give principal councils the option to choose which voting system to use for local government elections within their area. The options included within the Bill are First Past the Post (FPTP) and Single Transferable Vote (STV).
11. The EM notes that supporters of **FPTP** in the consultation on the *White Paper: Reforming Local Government: Resilient and Renewed*, take the view that voting and counting procedures are “simple, familiar and relatively cheap”. Those favouring **STV** noted as part of that consultation that the “system offers more proportionality and means that everyone’s vote counts, it reduces uncontested seats, encourages diversity among candidates and encourages voter engagement”.
12. The Summary of responses to the White Paper consultation notes:

“On the subject of choice, 33 out of 35 respondents who made comments about this proposal disagreed and would prefer to keep one voting system for the whole of Wales. The main reason for this was that it may lead to confusion in the public if neighbouring authorities had different voting systems.”
13. Any proposal to change the voting system would require the support of two thirds of all council seats in the relevant authority. The authority would also need to consult with residents eligible to vote in local government elections, and the town and community councils within its area about its intentions to change the voting system.
14. To ensure voting systems cannot be changed immediately after an election and change of administration, section 9(5) makes provision to prevent principal councils from changing the voting system until at least two ordinary elections have been held under the new voting system.

3.4. Section 11: Initial review by the Local Democracy and Boundary Commission for Wales

- 15.** The Local Democracy and Boundary Commission for Wales (LDBCW), an independent Welsh Government sponsored body has a responsibility to monitor and review the areas and electoral arrangements relevant to the local government structure in Wales.
- 16.** Section 11 of the Bill provides the Welsh Ministers, on being notified that a principal council has made a resolution to change the voting system, may direct the LDBCW to conduct an initial review of the principal area of the council.
- 17.** In the Summary of powers to make directions (page 83 of the EM as introduced), it notes that:
- “The Direction will be triggered by notice of a successful resolution from the council in question. The Direction will instruct the Local Democracy and Boundary Commission as to when to submit final recommendations. The procedure for the review is set out in Schedule 1 to this Bill. As such an Assembly procedure is not considered appropriate.”
- 18.** The procedures in Schedule 1 not only specify the powers to instruct a review, but also enables the Welsh Ministers to give “general directions about the conduct of initial reviews”. It also provides powers for the Welsh Ministers to direct the Commission to stop conducting an initial review or to conduct another initial review following publication of an interim report.

3.5. Sections 14-16: Change of electoral cycle from four to five year terms for principal councils and community councils

- 19.** Sections 14, 15 and 16 make provisions to change the electoral cycle for all local elections in Wales from four to five year terms, which would bring local government elections in line with other parliamentary bodies, such as the UK parliament and the National Assembly for Wales.

3.6. Section 17: Extension of power to change ordinary day of local elections in Wales

- 20.** Section 17 provides the Welsh Ministers with powers to vary, by order, the day of ordinary local government elections. The rationale for such a provision has not been included in the EM, however, Table 5.1 (page 59 of the EM as introduced) states that:

“The power to change the ordinary day of local government elections has implications for the administration of, and preparations for, those elections. It would amend existing legislation in relation to local government elections therefore the affirmative procedure is appropriate.”

3.7. Section 18-21: Database of electoral registration, payments and breach of duty

21. There are specific provisions in the Bill to enable the Welsh Ministers to establish and maintain an **all-Wales database** of electoral registration information. The purpose of which is set out in subsection (3) of section 18, which include ‘facilitating the piloting of new arrangements’ and to ‘improve accuracy of information contained in connection with local government elections or elections for membership of Senedd Cymru’.
22. The benefits of the provision, as stated in the EM, include ensuring the accuracy of the register and to support further reforms of electoral arrangements. The EM also notes that “Wales is sufficiently compact and the number of different registers few enough to make an exercise to devise a common electronic register realistic”. A single host, either a principal council, electoral registration officer (ERO) acting for a region of Wales, or the LDPCW would be responsible for its management. The all-Wales database would not replace the 22 existing registers.
23. In addition, the all-Wales database will, according to the Welsh Government, enable further reforms to electoral arrangements, including “**enabling voters to vote in polling stations outside of their local authority areas**”.

3.8. Section 22: Registration of local government electors without application

24. Section 22 amends the Representation of the People Act 1983, enabling EROs to register local government electors without an application. However, the ERO must be satisfied they have reliable information that the individual is eligible to be registered. This provision could be of particular significance in the context of registering 14 and 15 year-olds. Data for this cohort could be provided to EROs by “schools and educational services”.
25. Before adding a voter to the register without application, the ERO must notify the individual in writing, along with their rights to be excluded or apply for anonymous registration.

3.9. Section 23 and 24: Qualification and disqualification for election or holding office - Candidacy

26. Currently there are restrictions on council employees and officers, including teachers, from standing for election in the council area where they are employed. In order to stand for election within their own council area, they would need to resign from their paid employment. The Welsh Government notes in the EM that while it “recognises the need for checks and balances to ensure integrity and impartiality of advice” the “restrictions **may be preventing** a wide range of suitable candidates from diverse backgrounds from coming forward”.

27. The Bill makes provision to allow council employees (other than those holding politically restricted posts) to stand for election. Employees would **only be required to resign their paid employment with the council if elected**.

28. There are also provisions relating to the disqualification of individuals from standing for local government elections. The UK Government consulted in 2017 about expanding disqualification to include individuals who are subject to:

- the notification requirements in the Sexual Offences Act 2003 (sex offender register);
- a Sexual Risk Order;
- a civil injunction;
- a Criminal Behaviour Order.

29. The Welsh Ministers intend to extend the disqualification criteria for **the first two offences in Wales**, but not civil injunction and Criminal Behaviour Orders.

3.10. Section 26 and 27: Welsh Ministers’ discretion to introduce election pilot schemes and guidance

30. Electoral matters are now devolved to the Assembly. The EM notes that with several electoral reforms proposed, “electoral pilots are required in order to inform these reforms”.

31. Sections 26 of the Bill proposes to give the Welsh Ministers discretionary powers to “direct a Returning Officer, ERO or local authority (where appropriate) to conduct a specific electoral pilot at a local government election”. The EM does note however that the power provides the ability to require an ERO to undertake a pilot “in the event of no volunteer coming forward”.

32. Pilot schemes could include such options as **electronic counting, mobile polling stations** and to **include photographs on ballot papers**. The EM notes

that pilot schemes would “provide the evidence on which type of electoral reforms would have a positive impact on voter turnout and improve accessibility”.

- 33.** The RIA states that “all costs for pilots will need to be met by Welsh Government”. It continues by noting that a “detailed analysis of the likely costs will be produced prior to Welsh Ministers making a direction” to undertake a pilot into alternative systems for voting or counting votes.

3.11. Section 28: Returning Officers

- 34.** Returning Officers (ROs) are appointed under the Representation of the People Act 1983, and are responsible for the conduct of elections within their areas. The RO is usually, but not always, the council’s chief executive officer. The duties of an RO are separate to those of a local government officer. ROs can therefore reclaim a “fee” for their services in the running of an election “from the body responsible for the funding of the election”.
- 35.** Provisions in the Bill seek to “clarify” that ROs can only claim expenses properly incurred in the running of a local government election, but not the “personal fees in respect of services rendered”. This is a result of what the Welsh Government notes as “significant public attention to the level of salaries payable to senior public servants”.

4. Part 2 – General Power of Competence

Local government powers and duties are not set out in any single piece of legislation, but have been conferred upon them over time. Local government functions are as a result, limited by legislation.

Legislative provisions, such as the well-being powers introduced by the Local Government Act 2000 have gone some way to providing some flexibility for principal councils. to act in a way which they consider would “improve the economic social, environmental well-being of their area”.

The explanatory memorandum notes that there is a “perception that the well-being power is too limited”, and has not “empowered authorities to innovate or take more transformative action”. This may be for fear of acting outside the scope of the power.

The Bill therefore provides principal councils (and eligible community councils) with a **general power of competence**. It has the “aim of bringing about more effective, capable and innovative local government”.

It means that qualifying councils will **no longer be required to identify a specific power** in order to undertake a particular activity. Instead, they will be in a position in which it is “assumed they can do something unless there is a statutory restriction preventing it”.

4.1. Chapter 1: The General Power

4.2. Section 31: Local authority's general power of competence

36. Section 31 provides qualifying local authorities (principal councils) with the power to “do anything that individuals generally may do”. This, according to the Explanatory Notes (EN) will enable principal councils to “act in innovative ways, i.e. to do things that are unlike anything they, or any other public body, have done before”.

37. Subsections (2) and (3) further define the extent of the power, specifying that an authority does not need to exercise the power to the benefit of the authority, its area or residents. Subsection 2(a) also provides qualifying authorities with the:

- power to do it anywhere in Wales or elsewhere;

38. Subsection (2)(b) provides qualifying authorities with the power to undertake activity for a commercial purpose or otherwise for a **charge, or without a charge.**

4.3. Section 32: Boundaries of the general power

39. Section 32 is in effect a safety net, which ensures that qualifying authorities do not bypass existing prohibitions, limitations or restrictions. The EM states that local authorities' decision-making processes would have to be “rational and comply with public law principles”.

40. The Welsh Ministers also note in the EM that the risk to core services (i.e. schools and social services) is “limited due to prohibitions in pre-existing legislation”, which limits activities in these areas. However, the EM does not state unequivocally that the general power could not be used in such a way that it may put certain core services at risk in the future.

4.4. Section 33: Limits on charging

41. Section 33 provides a qualifying authority with the ability to charge for providing a service, but only if certain conditions are met. An authority cannot charge for a service if it is under a statutory duty to provide it.

42. Subsection (4) limits the ability of a qualifying authority to make a profit in any financial year when using the general power to charge for a service, other

than in “respect of services provided for a commercial purpose”.

4.5. Section 34: Limits on doing things for commercial purpose

43. In engaging in a commercial activity under the general power, the qualifying authority must establish a company as defined in section 1(1) of the Companies Act 2006. However, as explained in the EM, it cannot engage in commercial activity “unless the activity is one the authority could also carry out for a non-commercial purpose”.

44. The example provided in the EM is a local authority recycling centre run for non-commercial purposes. However, if there is additional capacity at the recycling centre, the authority could use the general power to “sell recycling services to neighbouring authorities or organisations”.

4.6. Section 35: Powers to make supplementary provisions

45. The Welsh Ministers, under this section, can make regulations to remove or change statutory provisions that may “prevent or restrict the ability of qualifying local authorities to use the general power”.

46. Similarly, subsections (3) and (4) provide the Welsh Ministers with powers to make regulations that restrict what a qualifying local authority can do under the same powers.

47. The RIA does not provide any cost analysis for local government of introducing this power, since it is considered to be an ‘enabling power’. The RIA does note that qualifying local authorities **could incur costs** if engaging in new activities under the new power. These will need to be “considered by individual authorities on a case by case basis” to ensure that the benefits outweigh the costs.

4.7. Chapter 2: Eligible Community Councils

48. There are approximately 735 community and town councils (“community councils”) in Wales, and they are responsible to their local electorate for delivering a broad range of services. Empowering eligible community councils with the general power of competence could, according to the Welsh Government, “allow them to be more ambitious and innovative”.

49. As a result of the new provisions, **Chapter 9, Part 7 of the Local Government (Wales) Measure 2011** will be repealed. The provisions in the 2011 Measure allowed Welsh Ministers to grant accreditation of quality in community government subject to meeting specific criteria. The provisions in the Measure have never been used.

- 50.** For a community council to be eligible to exercise the general power, a community council would “need to achieve higher standards of governance and financial management, professional capability, and greater democratic accountability”.
- 51.** The provisions in this Chapter, according to the Welsh Government, will ensure community councils are “suitably equipped to handle current and future challenges”. It will also strengthen local democracy, transparency and accountability, which the Welsh Government hope will have the potential to encourage more people to “become involved in determining the priorities for their local area”.

4.8. Section 37: Becoming an eligible community council

- 52.** This section makes provision for the criteria that must be met before a community council can be considered eligible for the general power.
- 53.** The key criteria are set out in subsections (2) to (4):
- (2) at least **two thirds** of the community council must be elected;
 - (3) that the clerk to the council holds **qualifications** as specified by Welsh Ministers by regulations;
 - (4) the council must also have received an “unqualified” AGW opinion on the council’s **most recent accounts**, as well as on the accounts which immediately preceded it.
- 54.** Only after the criteria have been met can a community council pass a resolution that it is an eligible council. Community councils not able to meet the conditions immediately would be able to “strive to meet the conditions in the future” notes the EM. However, this would require community councils being pro-active in meeting the conditions.
- 55.** The main cost implication for community councils as a result of the provisions is the cost of training and qualification for clerks. The Welsh Government has provided funding to the Society of Local Council Clerks (SLCC) for “some years to promote, administer and deliver training in CiLCA [Certificate in Local Council Administration] for clerks in Wales”. It is envisaged that such a qualification would be specified by Welsh Ministers by regulations.
- 56.** The RIA estimates the total cost for each qualification is £700. The Welsh Government envisage that a minimum of 350, and a maximum of 550 existing clerks would seek the qualification.

57. The projected minimum cost for community councils during the first three years would be £245,000, with a maximum cost of £385,000 during that time.

4.9. Section 38-40: Continuing to be and ceasing to be an eligible community council

58. Section 38 specifies that an eligible community council will need to pass a resolution annually confirming it meets the eligibility criteria. If it fails to pass a resolution, it will cease to be eligible. Section 39 also enables a community council, at any meeting, to pass a resolution to cease being eligible.

59. Section 40 provides that any activity that an eligible community council enters into, which relies on the general power, can continue, even if it is no longer an eligible council.

4.10. Section 41: Common community councils established after this Act is passed

60. This is a specific provision to deal with common community councils formed after the passing of the Act. A new common community council may meet the eligibility criteria relating to elected members and a qualified clerk immediately. It is also possible that some of its constituent parts were eligible councils before the new common community council formed. However, it would not meet the condition of requiring unqualified audit for the two most recent Auditor General for Wales opinions.

61. So not to disincentivise the forming of common community councils, the Bill makes provision to **disapply the eligibility criteria set out in 37(4)** in some cases. If at least half of the communities grouped had a community council which met the eligibility criteria in 37(4) immediately before they were grouped, it would not be required to meet this condition.

4.11. Section 44: Amendments relating to this Chapter

62. Schedule 3 repeals the well-being power in section 2 of the Local Government Act 2000 in full. It also amends section 93 (the power to trade) and section 95 (the power to charge for discretionary services) within the 2000 Act. These powers would no longer be required according to the Welsh

Government, since qualifying authorities will have the general power of competence.

- 63.** However, in repealing the well-being power in full, community councils which have not resolved themselves eligible for the general power, will not be able to exercise either power. The Welsh Government's rationale is that having more than one general power in law "could add to existing confusion" within the sector about the powers available to them. The Explanatory Notes also state that retaining the well-being power could limit the "incentive for community and town councils to meet the eligibility criteria" for the general power of competence.

5. Part 3 – Promoting Access to Local Government

The purpose and intended effect of Part 3 of the Bill is to encourage greater engagement and participation in local democracy among a more diverse range of the public.

The provision in the Bill will **require** principal councils to “encourage public participation in their decision-making and scrutiny procedures”.

This part of the Bill also makes provision for matters relating to the broadcast of council meetings, remote attendance of council members and opportunities for the public to speak at meetings.

5.1. Section 46-48: Duty to encourage participation

64. The provisions in section 46 to 48 places a duty on principal councils to encourage local people to participate in the council’s decision-making process. It also requires principal councils to prepare and publish a strategy specifying how it proposes to comply with its duties, including:

- how it intends to promote awareness of the council’s functions with the public;
- promoting how to become a member of the council or a related authority;
- facilitating greater access to information for members of the public; and
- providing ways for members of the public to make representations to principal councils.

65. While the areas a council must cover are predominantly related to facilitating and promoting awareness among the public, section 47, subsection 2(f) places a duty on principal councils to promote awareness of the benefits of using social media by members of the council and members of authorities connected with the council. In the recently published report by this Committee on *Diversity in local government*, the Committee recommended that:

the Welsh Government, in partnership with the Welsh Local Government Association and the Electoral Commission, urgently addresses deficiencies in guidance for elected representatives, candidates and prospective candidates on what does and does not constitute acceptable behaviour on social media.

66. The RIA estimates that each principal council will incur an annual cost of **£11,544** to pro-actively promote democracy. The total estimated cost for all councils will be **£254,000 per annum**. This recurrent cost will only be for a period of four years, between 2022 and 2026. An evaluation of its impact will be conducted in 2026-27.

67. In addition to the cost of pro-actively promoting democracy, principal councils will need to prepare and produce a strategy, estimated to cost £13,104 per council. This equates to £288,000 across all 22 principal councils for 2022-23. Tables 18 and 19 of the EM as introduced, provide details about the financial implications for principal councils of the new duties.

5.2. Section 49: Duty to make a petition scheme

68. The Bill places a duty in the Bill for all principal councils to establish a petitions scheme. At present, only some principal councils have a petitions scheme in place in their area. According to the Welsh Government, the duty would ensure that all principal councils “actively manage and respond to petitions”. A principal council must set out how a petition may be submitted, the steps the council will take in response to a petition, and what action, if any, it will take.

69. The provision also allows principal councils to establish an electronic petitions scheme, however, there are no obligations on them to do so.

70. As part of this reform, the Welsh Government proposes to abolish community polls (see section 158 and Schedule 12 of this Bill). According to the EM, the abolition of community-polls would “make public access to petitions quicker and easier which in turn could have a more timely impact on principal council decision-making”.

71. The costs associated with this section relate to the preparation, management and review of a petition schemes. It is anticipated there will be a one-off cost of £3,029 per council (£67,000 across all 22 councils) for preparing a petition scheme. The cost of managing and monitoring the petition scheme would amount to approximately £8,000 per year for each council (£176,000 across all 22 councils).

72. While there is no requirement on principal councils to establish an e-petition facility, the Welsh Government anticipates that the majority will do so. If councils were to establish a standalone e-petitions system, the Welsh Government has estimated a cost in the region of £12,500, and an ongoing annual maintenance cost of £4,000 per authority. (See Table 26 of the EM as introduced for further details).

5.3. Section 50: Duty on principal councils to publish official addresses

73. The Committee recommended in its report on *Diversity in local government* that the Welsh Government “makes it clear to local authorities that members should not be required to publish their home addresses on the authority’s website”.

74. Section 50 of the Bill seeks to address this matter. The EM states that “elected members should be freely accessible to local people”, but that a council member, should they wish to, be able to “protect the privacy of their home address”. The provision places a duty on councils to publish an electronic and postal address to which correspondence for the member may be sent.

75. However, it is left to the Explanatory Note to make it clear that the elected member address may be an **official address** rather than the member’s home address.

5.4. Section 52: Principal councils’ duty to publish constitution and constitution guide

76. There is an existing duty on principal councils to prepare and publish a constitution, which includes standing orders and codes of conduct. However the provision, according to the Explanatory Notes places, a duty on a principal council to keep its constitution “up to date”, and to prepare and publish a constitution guide which “explains the content of their constitution in **ordinary language**”.

5.5. Section 53: Electronic broadcast of meetings of certain local authorities

77. There is currently no statutory requirement on principal councils to broadcast council meetings. It is therefore at the council’s discretion whether to provide that facility to the public. It is thought that 18 of the 22 principal councils in Wales are currently broadcasting some or all of their meetings via a webcast.

78. The Welsh Government states in the EM that it “believes people should be able watch council meetings at any time.” Section 53 therefore places a requirement on principal councils to broadcast **all public meetings** (including sub-committees) and to make them available for a “reasonable period of time after the meeting”.

79. In addition, this section makes regulation-making provisions for the Welsh Ministers to enable the broadcast of meetings of a committee or sub-committee of Fire Authorities and National Parks Authorities in Wales.

- 80.** In 2012-13, the Welsh Government established a £40,000 grant to encourage principal councils to broadcast council meetings and improve public participation.
- 81.** Discussions held between the Welsh Government, principal councils, the WLGA, and the company providing the broadcasting service have identified the potential for a **single contract for Wales**. The cost for an “average broadcasting package” has been estimated at **£12,000 per year** for each council in Wales.
- 82.** This would equate to a yearly cost of **£264,000** for local government in Wales. The summary of costs in table 36 does not take account of any potential price increases or inflation.

5.6. Section 54: Conditions for remote attendance of members of local authorities

- 83.** The **Local Government (Wales) Measure 2011** made provisions to allow principal councils to facilitate the use of remote attendance for members.
- 84. The Committee heard as part of its inquiry into *Diversity in local government*** that the provision, as it stood, was too restrictive in its nature. The WLGA noted as part of the inquiry that:
- “the intention was very positive, in that it allowed members, potentially, to dive into a meeting from home, and potentially use Skype. Unfortunately, Skype wouldn’t be allowed through the law as it stands.”
- 85.** The EM highlights a number of potential issues to overcome and concerns within the sector with the practicalities of remote attendance. These include, among other matters, the risk of losing connection, and therefore the opportunity to vote. There is also a suggestion that contractors have been “reluctant to attempt to provide for remote attendance because of the technical challenges posed”.
- 86.** Despite some of the potential issues, the Welsh Government sees remote attendance as a “potentially important reform, particularly in the encouragement of diversity”.
- 87.** The RIA states that the cost for principal councils will vary, depending on arrangements that are put in place. The Welsh Government note however that an “overall annual cost to each principal council of £10,000 might be realistic”. Some of the cost of facilitating remote attendance may be off-set by savings made in reducing the need for members to travel to meetings.

5.7. Section 55: Participation at meetings of community councils

- 88.** Currently, community councils are not under any statutory obligation to allow public participation in meetings, although many will provide time for members of the public to speak.
- 89.** Section 55 amends Part 4 of Schedule 12 of the Local Government Act 1972 to provide that members of the public attending a community council meeting:
- “must be given **reasonable opportunity** to make representations about any items of business due to be discussed at the meeting”.
- 90.** The Explanatory Notes do not seek to define ‘reasonable opportunity’ in this context. It does however provide the person chairing the meeting with “wide discretion to decide what amounts to a ‘reasonable opportunity’, but would have regards to any guidance on this matter issued by the Welsh Ministers”.

5.8. Section 57: Annual Reports by Community Councils

- 91.** Currently, there is no statutory provision that states that a community council is required to prepare and publish an annual report. The Independent Review Panel on Community and Town Councils in its report in 2018 recommended that:
- “all Community and Town Councils should prepare an annual report setting out their progress to date and priorities for the forthcoming year.”
- 92.** Section 57 places a duty on all community councils to prepare and publish an Annual Report. The report should set out its priorities, activities and achievements during the year. It should be published as soon as reasonably practicable after the end of each financial year.
- 93.** The Welsh Government states that the benefit of publishing annual reports is that they will “generate a greater interest and understanding of the benefits of improved engagement and accountability”. This, it notes, “may result in an increase in participation by local communities”.
- 94.** The RIA explains that there are a “range of factors” that could impact on costs for community councils in preparing an annual report. This includes the range of functions and responsibilities each community council has and the size of the council. However, the core cost for the council relates to clerk resource.
- 95.** The Welsh Government provides some broad estimated costs for producing annual reports based on the size of the population within the community council area. Details are provided in Table 41 of the EM as introduced.

- 96.** The total cost for the community council sector could amount to around **£175,000** in Year 1 (2020-21). It is estimated that subsequent reports will take up to 60% less time after the initial year.

6. Part 4 – Local Authority Executives, Members, Officers and Committees

Part 4 of the Bill makes provision for a broad range of matters, including the appointment and performance management of chief executives of principal councils.

There are also provisions for expanding job-sharing for executive leaders and members of the executive, and for the appointment of assistants to the executive. The aim of the provisions is to strengthen and improve equality and diversity.

There is an emphasis in this part of the Bill on improving standards, placing greater responsibility on political leaders to promote and maintain “high standards of conduct by members of their groups”.

6.1. Section 59-62: Appointment of a chief executive, performance management and remuneration

97. The Local Government and Housing Act 1989 requires principal councils to designate an officer as its ‘head of paid service’. This officer is often described as the chief executive or managing director. This part of the Bill seeks to ensure consistency in definition and clarity around the duties of a chief executive. It also places a requirement on principal councils to appoint a chief executive.

98. The Welsh Government notes in its EM that the duties and responsibilities of the ‘head of paid service’ are “not consistently, or clearly, defined”. This can sometimes, according to the Welsh Government, be problematic, in particular in relation to the “relationship between the head of paid service and elected members”.

99. Section 60 makes provision in relation to the performance management of chief executives. It places a duty on the ‘senior executive member’ (leader or mayor) to prepare and publish arrangements for “managing the performance of the chief executive”.

100. Under the provisions as stated, the senior executive member will be required to conduct a review and write a report following the review. The senior executive member would need to consult with the chief executive on the content of such a report and send a copy to the chief executive and members of the council. It will be a matter for the council if it publishes the full report, part of the report or a summary of it.

101. Section 62 inserts a provision for the reconsideration of remuneration following direction by the Welsh Ministers. If the Welsh Ministers consider the remuneration of a council chief executive is ‘inconsistent’ with the recommendation of the Independent Remuneration Panel for Wales (IRPW), the responsibility cannot be delegated to the executive. It must be undertaken by the **full council**.

6.2. Section 63: Appointment of assistants to executives

102. Local government law does not recognise subordinate type of executive decision-maker akin to a junior or deputy minister. Some authorities, according to the Welsh Government in its EM, have “experimented with this approach”.

103. Currently, anyone appointed to this non-statutory role cannot exercise any statutory functions or receive senior remuneration. However, they are still eligible to sit on council scrutiny committees.

104. The Welsh Government is proposing to formalise the ability of an executive to appoint assistants, that can, in some circumstances, act on behalf of the executive. The assistant would not be a member of the executive, however.

105. The rationale for the provision is that it could increase the diversity of decision-making within councils. The role would be “less onerous” than that of a full-time executive member, providing opportunities for “less experienced councillors and potentially those with caring or employment commitments”.

106. However, it is for the council to decide on the number of assistants that may be appointed, their term in office and responsibilities. **Cardiff Council’s constitution**, for example, includes a description of the role and responsibilities of assistants to Cabinet Members.

107. The Welsh Government’s RIA notes that it is for the IRPW to determine salaries for members and the executive. However, it also notes that it is “possible that the Independent Remuneration Panel for Wales could determine that assistants to the executive should receive a senior salary, such as that paid to [an] executive member”.

6.3. Section 64: Job-sharing: executive leaders and executive members

108. To some extent, job-sharing among members of the executive has been possible for some time. However, the executive arrangements brought about by the Local Government Act 2000 placed restrictions on the number of members that can be appointed to the executive. This has limited the opportunities for executive leaders to appoint on the basis of a job-share.

- 109.** In order to encourage and facilitate diversity in council executives, section 64 introduces Schedule 7 to the Bill, which amends the 2000 Act. It provides for an increase in the maximum number of members of an executive from 10 to 12 (when at least two are elected to share office) or 13 (when at least three have been elected to share office).
- 110.** The only recent example of a job-share at an executive member level in Wales was at Swansea Council. Following the publication of the Committee's Report on *Diversity in local government*, the councillors that undertook the job-share **wrote to the Committee**, expressing support for the recommendation, but also to provide context, background, and to highlight the challenges to overcome.
- 111.** The Welsh Government considers that “enhancing the size of the executive in order to accommodate members who are unable to devote themselves full-time to such a role is likely to lead to a council leadership more reflective of the community they represent”.

6.4. Section 66: Family absence for members of local authorities

- 112.** Section 66 amends Part 2 of the Local Government (Wales) Measure 2011, removing the maximum number of weeks entitlement to family absence for members local authorities (26 weeks at present).
- 113.** This section also provides for the maximum period of absence to be specified in regulations. This would allow for greater flexibility as policy develops in this area.

6.5. Section 67: Duties of leaders of political groups in relation to standards of conduct

- 114.** Part 3 of the 2000 Act established a “statutory framework to promote and maintain high standards of ethical conduct by members and employees of ‘relevant authorities’ in Wales”. Relevant authorities are defined as principal and community councils, fire and rescue authorities and National Parks authorities.
- 115.** The EM refers to the Welsh Government’s White Paper – *Reforming Local Government: Power to Local People*. That White Paper stated that councils needed to be places where people are made to feel ‘welcome and respected’. It also expressed concern that an overly ‘macho’ culture existed in some authorities. This kind of culture, the EM notes, could act as a “deterrent to women in particular, standing for office”.
- 116.** The provision in section 67 builds on the existing provisions in the 2000

Act. It places a duty on leaders of political groups within principal councils to promote and maintain high standards of the members within their group. The Welsh Government hopes that this provision will lead to the “avoidance of reputational damage” and potentially attract and retain a “more diverse and representative membership”.

117. There are also provisions for extending the functions of standards committees to include monitoring compliance by leaders of political groups. Standards committees will also be required to report at the end of each financial year setting out an overview of conduct matters within the council. The provisions, according to the Welsh Government, will ensure good practice across all relevant authorities and contribute to higher standards of ethical conduct.

6.6. Section 69: Certain investigations by the Public Services Ombudsman for Wales

118. Section 69 and Schedule 8 of the Bill provides clarity following the repeal of section 60-63 of the 2000 Act. These sections dealt with “practical matters such as conflicts of interest, powers to obtain and disclose information and protection from defamation proceedings”.

119. No substantive changes have been made to the law, but provisions have been aligned with the Ombudsman’s powers relating to the investigation of maladministration and service failure in the Public Services Ombudsman (Wales) Act 2019.

6.7. Section 71: Power to require authorities to appoint joint overview and scrutiny committees

120. The Local Government (Wales) Measure 2011 made provision that allowed principal councils to form joint overview and scrutiny committees. The intention of the joint committee was “to make it easier to scrutinise the delivery of services by providers who cover more than one county, or to examine issues which cut across geographical boundaries”.

121. However, the EM states that these powers have rarely been used. Where it has been utilised, it has often been established in addition to individual council scrutiny, as opposed to instead of it.

122. Section 71 makes provision for regulation-making powers that would require local authorities to establish such committees where services are being provided across council areas.

6.8. Section 72: Community council training plans

- 123.** The aim of the provision is to ensure that both members and staff of community councils are suitably trained. The Welsh Government envisages a “handful of core areas, common to the good governance of all community councils, would be prescribed as compulsory for consideration”. The core areas identified include basic induction, code of conduct, finance and planning.
- 124.** However, the provision does not extend to a requirement on councillors or staff to undertake training itself, only to consider the training needs of councillors and staff.
- 125.** The cost implications for community councils will depend on a range of factors. However, broad estimates have been provided based on the population size the council serves (see Table 52 of EM as introduced). The total estimated cost for the community council sector for preparing and publishing training plans is **£135,000**.

7. Part 5 – Collaborative Working by Principal Councils

Local authorities already work collaboratively across a number of service areas. The **Commission on Public Service Governance and Delivery** (“the Williams Commission”) in its report in 2014, stated that public sector relationships in Wales are “overly complex”. The complexity, it stated, “does not serve Wales well”.

The Williams Commission acknowledged the potential benefits of collaboration, but noted that: “the underlying rationale for any collaboration must be that it can **deliver improvements**”.

This Bill, according to the Welsh Government, provides a new mechanism for a more simplified, coherent and consistent approach to collaboration. The EM notes that the new mechanism will “support the drive within principal councils for more economic, effective and efficient delivery of services”.

The provisions will enable the creation of corporate joint committees (for two or more principal councils) to deliver specified functions. The Welsh Government considers that corporate joint committees offer an “opportunity to align a number of collaborative approaches already in statute, reducing the need for (and therefore the costs associated with servicing) multiple separate boards”.

7.1. Section 75: Application by principal councils to establish a corporate joint committee

126. Section 75 enables two or more councils to make an application to the Welsh Ministers to establish a corporate joint committee. The application must specify the activities the councils propose to carry out. The Welsh Ministers must notify the principal councils if they decide to reject any proposals to establish a joint committee.

7.2. Section 76: Consultation before making joint committee application

127. The councils forming a corporate joint committee must consult the local people and community councils within their areas, the Public Services Boards or other Boards of the councils’ areas, along with every trade union recognised by the 1992 Act.

7.3. Section 77-78: Regulations for establishing a joint committee and conditions to be met

128. These provisions give the Welsh Ministers regulation-making powers to establish corporate joint committees and to specify the functions to be transferred.

129. The conditions to be met before making regulations are:

- the Welsh Ministers have received an application;
- the Welsh Ministers have consulted with those named in subsection (3) of section 78 on the draft regulations; and
- that each council making the application has given their consent to regulations being made.

7.4. Section 79-80: Establishing corporate joint committees where no request has been made and conditions to be met

130. The provisions in sections 79-80 give the Welsh Ministers powers to make regulations to establish corporate joint committees, even if an application from the relevant councils has not been made. However, the Welsh Ministers can only specify certain functions for the joint committees under such circumstances. These functions relate to:

- improving education;
- strategic planning for the development and use of land;
- transport; and
- economic development.

131. The conditions in section 80 of the Bill must first be met, before the Welsh Ministers can move ahead to draft regulations. The Welsh Government notes in the EM that:

“It is important to note that whilst there is an intention for Welsh Ministers to create corporate joint committees in the areas specified on the face of the Bill, the intention is to **work with local government to co-design corporate joint committees**”.

132. The RIA notes that “it is not possible to predict whether any applications to Welsh Ministers to create a corporate joint committee are likely to come forward, when they might arise or the number of councils involved”. Any regulations made under these provisions will include a Regulatory Impact Assessment. For local government, the potential costs/savings will “likely be a key consideration in any decision by two or more councils involved”.

7.5. Sections 81-87: Further provisions relating to corporate joint committees and regulations

133. The remaining sections in Part 5 make specific provisions relating to the making of regulations and what may or must be included, amendments and revocation of regulations and supplementary provisions. The supplementary provisions include such matters as requirements on CJC's to share information with the Welsh Ministers, and the transfer of staff from principal councils to a CJC.

8. Part 6 – Performance and Governance of Principal Councils

The **Local Government (Wales) Measure 2009** places a general ‘improvement’ duty on principal councils, and requires them to produce an improvement plan. The plans, which are reviewed by the Auditor General for Wales (“the AGW”), have become “process orientated” according to the Welsh Government, and “tended to focus on activity or outputs which can be easily measured”.

The Williams Commission in its **report** in 2014 highlighted “variations in services performance” and that “governance and scrutiny were not operating effectively enough to support and drive improvement or change delivery”.

The EM states that it is currently for the AGW to determine whether local authorities have “achieved continuous improvement each year, whether they have the capacity to improve further and whether either the principal council or the Welsh Ministers should take action”.

Under the proposals in the Bill, principal councils will be required to conduct an annual self-assessment of performance and a “periodic review to provide an external, expert perspective” on performance.

The Bill also gives the Welsh Ministers powers to intervene where principal councils face significant problems, and include powers for the AGW to “carry out a special inspection”.

8.1. Sections 88 and 90: Duty of principal council to keep its performance under review and report on its performance

134. Sections 88 and 90 place a duty on principal councils to keep its performance under review. The review should look at the effectiveness of the council in the exercise of its functions, efficient use of resources and governance.

135. Following review of its performance, a council is required to report on its conclusions. The report under this part of the Bill is referred to as a ‘self-assessment report’.

136. Councils will be expected to share a draft of the report to the newly-named ‘Governance and Audit Committee’ (see section 114 of the Bill which relates to the name and functions of audit committees). The governance and audit

committee, in reviewing the draft report, may recommend changes to it. Where a council decides against making changes as recommended, it must give reasons for its decision in the report.

137. The council must publish and send the report to the Auditor General for Wales, to Her Majesty's Chief Inspector of Education and Training in Wales ('Estyn') and the Welsh Ministers. The first self-assessment exercise would likely occur in 2020-21.

8.2. Section 89: Duty to consult local people etc. on performance

138. In relation to the drafting of the self-assessment report, councils will have a duty to consult at least once in each financial year. The purpose of the consultation is to seek views on whether the council is meeting the performance requirements.

139. Consultees include local people, those running businesses in the area, council staff and every recognised trade union.

8.3. Section 91-93: Duty on principal council to arrange for panel performance assessment, respond to a panel report, and supplementary regulations

140. Each principal council will be required to appoint a panel at least once during each electoral cycle to assess council performance. The EM states that the provision to establish a panel process provides an "opportunity to seek external insights (other than from auditors, regulators or inspectors) on how the council is meeting the performance requirements".

141. Section 93 makes provision for the Welsh Ministers to prepare regulations in connection with the appointment of Panels, which could include the number to be appointed and conditions of appointment. It may also specify payment of fees to or in relation to panel members.

142. The panel will conduct a performance assessment, and is required by subsection (3) of section 91 to consult with local people, business owners, council staff and trade unions. This is the same list of consultees specified in section 89, which a principal council must consult with on its performance at least once a year.

143. The panel must report on its conclusions and recommendations for actions to be taken by the council, sending a copy to the council, the AGW, Estyn, and Welsh Ministers.

144. The RIA notes there will be cost implication in the region of **£26,000** for “producing guidance to support self-assessments and panel assessments”. The intention of the Welsh Government is to work together with local government to produce the guidance. This, it notes, will “ensure it is fit for purpose and delivers the policy intention”.

145. The Welsh Government does not think the requirements to review performance will “impose any significant new costs on principal councils, but rather codifies what all councils should already be doing”. However, there would likely be cost implications in the region of **£26,500 per authority** for the panel assessment.

146. The cost is based on the Welsh Government’s experience of supporting councils to “undertake similar assessments”.

8.4. Section 94: Power of Auditor General to carry out a special inspection

147. This section provides the AGW with powers to conduct an inspection (“special inspection”) of a principal council if the council is not meeting the performance requirements. The Welsh Ministers may also request that the Auditor General considers the performance of a council, or considers whether to conduct a special inspection.

148. Before determining whether to carry out a special inspection of a principal council, the Auditor General must consult the Welsh Ministers, unless the Welsh Ministers made the request under subsection (3).

149. The AGW is required to report on the outcomes of a special inspection, and to include any recommendations for the council or the Welsh Ministers to take action.

8.5. Section 95-96: Duty on principal council and Welsh Ministers to respond to AGW recommendations

150. If the AGW’s report contains recommendations, the council is required to prepare a response stating what actions, if any, it intends to take.

151. The draft response must be sent to the council’s governance and audit committee to be reviewed. The committee can recommend changes to the response, but if the council rejects any of the recommendations made, it must set out its reasons for this decision in its final response.

152. The council will need to send its final response to the AGW, the Welsh Ministers and Estyn.

153. Similarly, if the AGW makes recommendations for the Welsh Ministers, a response must be prepared and sent to the AGW, Estyn and the council(s) in question.

8.6. Section 97-100: Auditor General's power of entry, inspection and fees

154. Sections 97 makes provision in relation to the AGW's ability to undertake special inspections. As with any standard audit process, a council must provide documents it holds, provide facilities and assistance for AGW inspectors to undertake their duties.

155. Sections 98 and section 100 relate to matters such as notice periods for entry of inspection, identification, and fees in respect of special inspections. The Explanatory Notes state that the Wales Audit Office will have "discretion to charge a fee which departs from the set scale" if the cost of a special inspection is "substantially more or less than originally envisaged".

156. Section 99 makes specific provisions about obstruction of an inspector exercising powers under section 97. A persons failing to comply with the requirements are committing an offence. If a person is found guilty of a 'summary offence', they could face a fine of up to £1,000 (level 3 on the standard scale – see **section 37 of the Criminal Justice Act 1982**).

8.7. Section 101-106: Power of direction, intervention and support provided by Welsh Ministers

157. Provisions in the following sections gives the Welsh Ministers powers to provide support, or to direct a principal council to support another principal council.

158. Section 101 provides a framework for the Welsh Ministers to support and assist a principal council for the "purpose of increasing the extent to which the council meets the performance requirements".

159. Section 102 provides the Welsh Ministers with power to direct a principal council to provide support and assistance to another principal council to assist the supported council to meet the performance requirements. The level of such support will be specified in the direction.

160. Section 103 makes provision for powers of intervention for the Welsh Ministers. Presently, under the 2009 Measure, an authority would have to request assistance from the Welsh Ministers before they could intervene (**Section 28(4)** of the Local Government (Wales) Measure 2009). This provision gives the Welsh Ministers the power to intervene **without a request** from the principal council.

161. Sections 104-106 give the Welsh Ministers powers to direct a principal council to take, not to take or cease taking specified steps. The provisions in section 106 also provide the Welsh Ministers with powers to direct that a specified function of a principal council could be “exercised by the Welsh Ministers or a person nominated by them.”

8.8. Section 108-110: Power of WM to add to list of persons to whom a report must be sent, to amend enactments, and issue guidance.

162. The provisions in sections 108 to 110 provide the Welsh Ministers with the ability to make regulations for various purposes. This includes adding persons for whom a report under Chapter 1 must be sent, and to amend, modify, repeal, revoke or disapply enactments that would prevent principal councils from complying with this Chapter.

8.9. Section 114 and 115: New name and function along with membership of governance and audit committee

163. Section 114 amends the 2011 Measure in relation to the name of audit committees – which are now be known as ‘governance and audit committees’. The provision also adds to the functions of these committees.

164. The EM states that “Audit Committees provide important checks and balances to a principal council’s governance arrangements” and they are tasked with reviewing and scrutinising a principal council’s financial affairs, risk management and corporate governance arrangements, among other functions.

165. Section 115 changes the membership of the new governance and audit committee. The provision will **increase the number of lay members**. The 2011 Measure specifies that at least two thirds of an audit committee membership must be members of the authority, and one member must be a lay member. This Bill amends the provision in the 2011 Measure to ensure that **one-third** of the membership of the committee are lay members. The Bill also goes a step further to now require that the **Chair** of the new committee **must be a lay member**. Previously, the Chair could be a member of the authority or a lay member.

166. According to the Welsh Government, the rationale for the change is that lay members bring a “range of skills, perspectives and experiences, which can strengthen the scrutiny an Audit Committee can provide”. In turn, this will “strengthen their ability to provide robust and independent scrutiny”. The EM notes that the response from the public in recent consultations on local

government reform is supportive of such changes. The response from the local government sector was less receptive.

- 167.** The size of the governance and audit committee's membership and the frequency with which it meets is a matter for principal councils to determine.
- 168.** While the new functions of a governance and audit committee are not expected to have a cost implication, the increase in lay members could. The main cost would relate to allowance claims by lay members attending meetings.
- 169.** On current figures, the average allowance for lay members is £200 per meeting. The Welsh Government anticipate a cost of around £4,800 a year per authority. This is based on a number of assumptions, including an additional 4 lay members on the committee and 6 meetings a year. The cost could vary depending on the size of the committee and the frequency with which it meets.

8.10. Section 118 and 119: Coordination between regulators

- 170.** These provisions require the AGW, along with other 'relevant regulators' to have regard to the need for coordination in the exercise of each of their functions. The other 'relevant regulators' are listed in Table 1 of section 119, and include Estyn and the Welsh Ministers in relation to the exercise of social services functions.
- 171.** Section 118 also requires the AGW to draw up a timetable for each principal council to show when each regulator will be exercising their functions. The regulators must take all reasonable steps to ensure they adhere to the timetable.

9. Part 7 – Mergers and Restructuring of Principal Areas

The debate over the structure of principal councils in Wales has been ongoing for several years. In 2013, the Welsh Government established the Williams Commission to gather and provide an objective assessment on the sustainability of public service delivery, and to propose an optimal model of public service governance and delivery for Wales.

The Commission recommended that the twenty-two local authorities should “merge into larger units. This should be done by merging existing local authorities, not redrawing boundaries from scratch.” In 2015, the Welsh Government at the time made the case for the compulsory mergers of principal councils by consulting on a **draft Local Government (Wales) Bill**.

The objectives of the draft Bill, according to the draft EM, was to “complete the programme of County or County Borough mergers” and set out a “new and reformed legislative framework for Local Authority democracy, accountability, performance and elements of finance.” A final Bill was not introduced as anticipated however.

The Local Government and Elections (Wales) Bill does not make provision for compulsory mergers, but does provide principal councils with the opportunity to merge **voluntarily**. The Bill also makes provision for restructuring principal councils where a council is “facing serious difficulties”, but cannot find a “willing partner” to merge voluntarily.

9.1. Chapter 1 – Voluntary Mergers of Principal Areas

172. During the latter part of 2014, the Welsh Government of the Fourth Assembly invited principal councils to make proposals for voluntary mergers. Three proposals came forward – Blaenau Gwent and Torfaen, the Vale of Glamorgan and Bridgend and Conwy and Denbighshire. However, the then Minister, Leighton Andrews AM rejected all three proposals. In a Ministerial statement, he stated that:

“I have considered each Expression of Interest carefully against the criteria set out in the Prospectus. I am disappointed to report that on the basis of this assessment I am not persuaded that any one of these Expressions of Interest sufficiently meets the criteria for moving ahead to prepare a full Voluntary Merger Proposal.”

173. In 2018, the Welsh Government’s Green Paper – *Strengthening Local Government: Delivering for People* proposed three options – voluntary mergers, a phased comprehensive merger programme by the next local government elections, or a comprehensive programme of mergers at the earliest opportunity. The Welsh Government in this Bill has favoured enabling voluntary mergers.

174. The Bill allows councils to propose a merger at any time, and not be bound to any specified map. Mergers, according to the Welsh Government, will form part of a “wider shared agenda for reform such as greater collaboration and service transformation”. It should be seen as a “tool to strengthen resilience and sustainability”.

175. The Welsh Ministers, through the provisions in this Bill, can give effect to a voluntary merger by regulations. The Welsh Government notes in the EM that the alternative is a “lengthy procedure involved in introducing a Bill specifically for the purpose”.

9.2. Section 120: Merger applications

176. This provision enables principal councils to make a joint application to the Welsh Ministers to ask them to make regulations to merge their principal councils. Applications can only be made with the authority of the **full council** of each council making the application.

9.3. Section 121: Consultation before making a merger application

177. This provision places a duty on principal councils to consult on a merger application before submitting the application to the Welsh Ministers. A list of consultees is included in this section, which includes a requirement in subsection 1(h) to consult with: every other principal council for a principal area which is likely to be affected by the proposal for merger.

178. The Welsh Government states in the Explanatory Notes that councils wishing to undertake a consultation on merging voluntarily can do so “before this section comes into force” and that this “may satisfy the requirements to consult”.

9.4. Section 122: Guidance about merger applications

179. The guidance, to be prepared by the Welsh Ministers, should “cover matters the principal councils will need to consider in formulating an application”. The considerations include the benefits of a merger, any costs and savings and impact assessments. The EN notes that the:

“provision has retrospective effect; any guidance issued by the Welsh Ministers before the provision comes into force will have the same effect, so principal councils **will be able to start work**, if they so wish, on preparing a voluntary merger application **whilst this Bill is still being considered**.”

9.5. Section 124: Shadow councils and shadow executives

180. Merger regulations must provide for a shadow council for the new principal area. In almost all cases, shadow councils must be elected the year before the transfer date and will consist of all members of the merging councils. The shadow council will also need a shadow executive.

9.6. Section 125 and 126: Voting system and elections

181. The merger regulations would need to specify which voting system is to be used (STV or FPTP). This would be a decision for the merging councils to determine in their application to merge.

182. In the absence of agreement, the Welsh Ministers will determine the voting system based on the voting system used in both councils, or in the majority of merging councils, immediately before the application to merge. However, there may be circumstances where the Welsh Ministers determine the voting system used, for instance, if four councils were merging, and two used STV and two used FPTP. The Welsh Ministers are required to consult the merging authorities before the system is determined.

9.7. Chapter 2 – Restructuring of Principal Areas

183. The Welsh Ministers currently have powers, by order, to amalgamate two or three principal councils to create new councils. These powers are contained in the 2011 Measure. The sections relating to restructuring in this Bill include provisions to enable the Welsh Ministers to make regulations which will provide a more responsive and effective mechanism for achieving the restructuring of a principal council.

184. The restructuring of a principal council could mean merging the council with one or more of its neighbouring councils, or splitting its area among two or more of its neighbours.

185. The Chapter relating to restructuring also provides the Welsh Ministers with **powers to direct** the Local Democracy and Boundary Commission for Wales to carry out a review of boundaries of a principal council. Currently, the Local Government (Democracy) (Wales) Act 2013 provides the Commission with “wide-ranging” powers to conduct reviews of boundaries of principal councils.

These reviews can only be initiated by the Commission itself, for which they may make recommendations to the Welsh Ministers for boundary changes. It could also recommend abolishing a principal area.

9.8. Section 128-130: Conditions to be met, abolition requests and restructuring regulations

186. In order to start the process of making restructuring regulations, five conditions must first be met. These conditions are set out in section 128, subsections (2) to (6): A special inspection report has been issued by the AGW, or that the Welsh Ministers have received an abolition request from a principal council.

- That the Welsh Ministers have given notice to the affected councils that a special report or abolition request has been received.
- That the Welsh Ministers have consulted with the councils that will be affected by the restructuring regulations, and any other persons considered appropriate.
- After consulting, the Welsh Ministers must be satisfied that **without** restructuring regulations, **effective and convenient** local government is not likely to be achieved in the area of the council under consideration.
- To give notice to the councils that regulations are to be made.

187. Section 129 makes provision for a principal council to request that the Welsh Ministers consider abolishing the council and its principal area. The request must be made by the **full council**, not the executive.

188. Section 130 sets out the powers for making restructuring regulations. The regulations will specify the local government structures that will replace the principal council or councils affected.

9.9. Section 131-133: Restructuring regulations – other specific matters to be included

189. Section 131 to 133 set out what must be included, or considered for inclusion, in the restructuring regulations.

190. Section 131 makes provision for restructuring regulations where part of a principal council area is to become part of another existing principal council. Regulations must or may include such matters as voting systems, executive arrangements, terms of office and remuneration in regulations. The regulations may also specify the need to postpone or cancel ordinary election, or even to extend the term of office for members.

191. Section 132 makes provision for restructuring regulations which constitute

a new principal area. While some matters such as voting systems are included here, there are other matters that must be included in regulations. These include matters relating to the boundary of the new principal area, whether it is to be a county or county borough and for an elected shadow council.

- 192.** Section 133 provides some element of discretion to include provisions outside of sections 131 and 132. For example, restructuring regulations may provide for establishing a committee to provide advice and recommendations about the transfer of functions or staffing matters. It may also provide for establishing a body corporate to take over the disposal or acquisition of property, or to borrow or lend money.

9.10. Chapter 3 – Functions relating to Mergers and Restructuring

9.11. Section 135 and 136: Transition committees and restraint on transactions

- 193.** Section 135 introduces Schedule 10. It makes provision for establishing transition committees of merging or restructured councils.
- 194.** Schedule 10 makes specific provisions for transition committees, including membership, which must be of equal proportion from the merging councils, and that the executive leaders of each council must sit on it.
- 195.** The transition committee is to advise and make recommendations for councils and shadow councils, and in some instances Welsh Ministers about issues that need to be addressed. It can also create sub-committees to advise the transition committee on specific areas.
- 196.** The merging councils must meet the cost of the transition committee, including staff, resource and facilities.
- 197.** Section 136 and Schedule 11 enable the Welsh Ministers to impose restraints and certain controls on specified activities of merging or restructuring councils. Failure to comply with a direction issued in relation to a restricted activity is covered in paragraph 5 to the Schedule. There are potentially significant penalties as it could prevent a merging authority from setting and collecting its council tax.

9.12. Section 137: Reviews of electoral arrangements

198. The Welsh Ministers, under this provision, may direct the Local Democracy and Boundary Commission for Wales (“the LDBCW”) to conduct an initial review of electoral arrangements for principal areas after receiving an application for a voluntary merger or restructuring from principal councils.

9.13. Chapter 4 – Remuneration arrangements for new principal councils

9.14. Section 141-44: Directions to the Independent Remuneration Panel for Wales, panel reports and pay policy statements

199. Section 141 enables the Welsh Ministers to direct the Independent Remuneration Panel for Wales (IRPW) to perform ‘the relevant functions’ concerning payments to be made to elected members in relation to shadow councils.

200. Section 142 requires the Panel to submit a report (either by way of an annual or supplementary report) on its determinations with regards pay for members of a shadow council.

201. Section 144 requires a shadow council to prepare and approve a pay policy statement that provides for clarity and transparency the policies of the shadow council relating to the pay of its workforce. Shadow councils are prohibited from appointing a chief executive (appointed under section 59 of this Bill) until the pay policy statement has been approved.

10. Part 8 – Local Government Finance

Part 8 of the Bill amends existing legislation regarding non-domestic rates, otherwise known as business rates, and council tax.

The Bill introduces new tax avoidance measures in relation to non-domestic rates. It will also amend the way that the non-domestic rates multiplier is calculated.

The Bill will also remove the power to enable imprisonment as a sanction for non-payment of council tax.

10.1. Sections 149-151: Non-domestic rates avoidance

- 202.** The Bill will introduce a number of measures relating to non-domestic rates avoidance, amending Schedule 9 to the Local Government Finance Act 1988 in relation to the administration of non-domestic rating.
- 203.** Section 149 of the Bill provides Billing Authorities with powers to request information from ratepayers and third parties for the purposes of exercising their functions in relation to non-domestic rates billing and collection. It introduces fines for convictions for making a false statement relating to a notice, and for failing to provide information. Welsh Ministers are given a regulation-making power to enable billing authorities to request or obtain information, subject to the Assembly's approval of regulations made.
- 204.** Section 150 provides Welsh Ministers with a power to make regulations requiring persons to notify Billing Authorities of a change in circumstance that would affect rates liability. It introduces fines for convictions for making a false statement relating to a notice, and for failing to provide information. The regulations must also provide an appeal mechanism for appeals against any fine imposed.
- 205.** Section 151 gives billing authorities powers to inspect and survey a hereditament, provided that the Valuation Tribunal of Wales has approved this, and has given 24 hours written notice of the proposed use of the power. A person exercising this power must give written evidence of their authority to do so if requested. This section also introduces fines for people who are convicted of wilfully delaying or obstructing a person in exercising this power.
- 206.** The Welsh Government consulted on these measures in both the 2015 draft Bill consultation and **Tackling avoidance of non-domestic rates in Wales. Page 43 of the EM states that:**

“Respondents generally agreed there was a need to address the issue of avoidance and there was support for creating new legislation alongside a range of other Welsh Government proposals that are non-legislative or require amendments to subordinate legislation.”

207. In the **summary of responses** to the consultation conducted by the Welsh Government, it states that (pages 7-8):

“Respondents were generally supportive of the proposed safeguards, with 29 in favour of the measures. There was some concern however that having only 24 hours’ notice was not long enough. In particular, the Federation of Small Businesses preferred at least a week’s notice.”

208. From 2021-22, local authorities would incur annual costs of **£257,000**, or **£11,769 per local authority**. These costs cover 25% of a billing officer in each local authority’s time spent keeping information up to date and investigating avoidance activity.

10.2. Section 152: Non-domestic rates multiplier

209. Section 152 of the Bill amends schedule 7 to the Local Government Finance Act 1988, to make a permanent change to the way that the non-domestic rates multiplier is calculated. It sets out how the non-domestic rating multiplier will be set for a financial year, using the annual increase in consumer price index (CPI).

210. The rateable value of a property is an estimate of how much it could rent for per year on the open market at a given point in time. This is then multiplied by the ‘pence in the pound’ paid in non-domestic rates, known as the multiplier, to calculate the liability for the property.

211. Prior to 2018-19, the non-domestic rates multiplier was increased at the start of each financial year by the retail price index (RPI) measure of inflation. From 2018-19 the CPI measure of inflation has been used instead of RPI, to adopt the same approach introduced by the UK Government in relation to England.

212. Subsection (2)(f) gives the Welsh Ministers regulation making powers to change the mechanism by which the multiplier is calculated from CPI to an alternative, subject to approval from the Assembly.

213. Costs relating to section 152 are set out on pages 250 to 254 of the EM. The Welsh Government will see savings of £8,000 per financial year from 2021-22 due to time savings from not preparing annual subordinate legislation to adjust the calculation used to determine the multiplier.

10.3. Section 154: Removal of power to provide for imprisonment of council tax debtors

214. Provisions in the Local Government Finance Act 1992 allow the Welsh Government to make regulations providing for imprisonment as a result of non-payment of council tax. Section 154 of the Bill removes this enabling power so that it can only be made in relation to billing authorities in England. The Welsh Government's rationale for this approach is that:

“The Welsh Government believes imprisonment is an outdated and disproportionate response to a civil debt issue and that the financial costs and the impact on households outweigh the benefits.”

215. In 2018 the Welsh Government consulted on removing imprisonment as a sanction for failing to pay Council Tax. On 1 November 2018, the then Cabinet Secretary for Finance, Mark Drakeford AM announced that from 1 April 2019, it would no longer be possible to start proceedings to commit an individual to prison for council tax debt. He also stated that:

“In response to the consultation, local authorities asked for additional measures to help them to maintain collection rates. We are committed to working with local authorities to monitor the implementation of the change to the legislation and will consider the introduction of new measures if necessary”

216. In February 2019, the Minister for Finance and Trefnydd, Rebecca Evans AM **laid regulations** to amend regulations 47 and 48 in the Council Tax (Administration and Enforcement) Regulations 1992 to remove the power of enforcement by committal to prison from 1 April 2019.

11. Part 9 - Miscellaneous

Part 9 of the Bill covers a number of different areas in relation to local government and the fire and rescue authorities. Among the areas included are information sharing between regulators (section 156), the merging and demerging of Public Services Boards (section 161) and provisions relating to combined fire and rescue authorities (sections 162-163).

11.1. Sections 157: Local authorities' Head of Democratic Services

217. Section 157 amends Section 8 of the Local Government (Wales) Measure 2011, so that the Head of Democratic Services in a local authority is treated as a chief officer and afforded appropriate statutory protection. It also removes the restriction on a local authority's Monitoring Officer being its Head of Democratic Services.

218. The Measure introduced provisions requiring principal councils to appoint a democratic services committee with various functions, including the duty to designate one of the council's officers as the head of democratic services. However, the Measure did not specify the level of officer that should fulfil the duty.

11.2. Section 161: Merging and demerging public services boards under the Well-being of Future Generations (Wales) Act 2015

219. Section 161 of the Bill amends section 47 of the Well-being of Future Generations (Wales) Act 2015 (the WFG Act). It provides that a merged Public Services Board can demerge, or partially demerge if it is considered that it would assist in contributing to the achievement of the well-being goals. Welsh Ministers can also direct a board to demerge or partially demerge in circumstances where this would assist in contributing to the achievement of the well-being goals.

220. It also sets out what steps need to be taken regarding the preparation of local well-being plans following the merger, demerger or partial demerger of boards. Before publishing a plan, a board must consult the Future Generations Commissioner, Welsh Ministers, and other persons it considers appropriate.

221. Currently, there are three merged Public Service Boards in Wales – Conwy and Denbighshire; Gwynedd and Anglesey; and Merthyr Tydfil and Rhondda Cynon Taf. The remaining 16 local authorities have not merged, and have their own Public Services Boards.

11.3. Sections 162 and 163: Fire and rescue authorities

- 222.** Section 162 of the Bill covers inquiries into finance and governance arrangements of Fire and Rescue Authorities (FRAs). These are established by “combination orders” under the **Fire and Rescue Services Act 2004**. It amends this Act to remove the requirement for the Welsh Ministers to hold an inquiry when varying an FRA’s combination order, except where the variation alters the area served by a FRA, or would revoke the combination order with a view to creating a wholly different configuration of FRAs in Wales.
- 223.** Section 163 covers performance and governance of fire and rescue authorities, and introduces a new performance management system for them following the repeal of part 1 of the Local Government (Wales) Measure 2009.
- 224.** The provisions amend the Fire and Rescue Services Act 2004 to provide powers for the Welsh Ministers to make regulations requiring FRAs in Wales to develop strategic plans, and to impose requirements relating to a plan.
- 225.** These requirements could cover a plan’s content; its preparation and revision; when it is to be made; the period it relates to; and its publication. It also gives Welsh Ministers powers to make regulations in relation to assessing or reporting on the performance of an authority, including imposing requirements. Prior to making regulations Ministers must consult FRAs, employee representatives and anyone else they deem appropriate.

12. The Assembly's Consideration of the Bill

12.1. Scrutiny of the Bill by the Equality, Local Government and Communities Committee

The Business Committee agreed to refer the Bill to the Equality, Local Government and Communities Committee (ELGC) for Stage 1 scrutiny to consider and report on the general principles.

The Committee undertook **15 evidence sessions with stakeholders**, which included two scrutiny sessions with the Minister for Housing and Local Government, Julie James AM. The Committee also undertook a public consultation and a survey with members of the public regarding Part 3 of the Bill which makes provisions for promoting access to local government.

The **Committee's Stage 1 Report on the Bill was published on 13 March 2020** (PDF 2MB), and makes 32 recommendations for the Welsh Government on a wide range of matters in relation to the Bill.

The Committee recommended that the general principles of the Bill are **agreed by the Assembly**.

12.2. Scrutiny of the Bill by other Assembly Committees

The Assembly's **Finance Committee** and the **Legislation, Justice and Constitution Committee** also undertook scrutiny of the Bill, with both holding evidence sessions with the Minister on their respective areas of interest.

Both the **Finance Committee** (PDF 1MB) and the **Legislation, Justice and Constitution Committee** (PDF 1MB) also published their reports on the 13 March 2020. Both committees expressed concern regarding the number of enabling powers for the Welsh Ministers that may be brought forward through subordinate legislation. The Finance Committee was concerned with the lack of cost estimates included for such powers, noting that in a previous committee report on subordinate legislation:

The Committee raised on a number of occasions that the Welsh Government should include a best estimate of the costs associated with subordinate legislation alongside the relevant primary legislation.

The Legislation, Justice and Constitution Committee noted in its report that there are regulation making powers in the Bill for policy areas that are not yet fully

developed. It stated that:

We do not consider it appropriate to take powers to deliver policy that has not yet been fully developed or foreseen. We consider this to be poor legislative practice. This approach provides too much power to the executive at the expense of the legislature.

