

CONSTITUTION COMMITTEE:

9 NOVEMBER 2022

**REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL SERVICES
AND MONITORING OFFICER**

WELSH GOVERNMENT DRAFT STATUTORY GUIDANCE FOR PRINCIPAL COUNCILS

Reason for this Report

1. To allow the Committee to formally consider draft Statutory Guidance for Principal Councils in Wales issued by the Welsh Government earlier this year.

Background

2. The Local Government and Elections (Wales) Act 2021 ('the 2021 Act') contains several provisions to promote diversity, involvement and participation in county and county borough (principal) councils. These include:
 - Duty to encourage local people to participate in decision making
 - Strategy on decision making
 - Duty to make a petition scheme and the abolition of certain community polls
 - Duty on principal councils to publish an official address for members
 - Duty to publish a constitution guide
 - Electronic broadcasting of meetings
 - Provision for multi-location meetings
 - Appointment of assistants to the executive
 - Job sharing for executive leaders and members of the executive
 - Provision to issue guidance to the executive in relation to equality and diversity of its membership
 - Amendments to the family absence provisions for elected members
 - Making information available to overview and scrutiny committees
 - Power to require authorities to appoint joint overview and scrutiny committees
 - The renaming of audit committees to governance and audit committees and changes to their membership and remit
 - Removal of the bar on councils designating the same officer head of democratic services and monitoring officer.
3. At its last meeting in February 2022, the Constitution Committee received a number of reports on specific aspects of the new legislation, including the Council Petition Scheme, Constitution Guide, Multi-Location Meeting Arrangements and Cabinet Job Sharers and Assistants to the Cabinet (within the Constitution Update report).

4. Whilst the 2021 Act creates standalone provision for certain matters, it also amends, sometimes extensively, previous legislation in the Local Government Act 2000 ('the 2000 Act') and the Local Government (Wales) Measure 2011 ('the 2011 Measure'). Statutory guidance issued under the 2000 Act and the 2011 Measure on matters such as executive arrangements, constitutions, scrutiny, training and development for elected members and the timing of meetings was issued several years ago and does not reflect the legislative changes in the 2021 Act, nor wider legislative change such as the Equality Act 2010 and the Well-being of Future Generations (Wales) Act 2015.
5. The Welsh Government has therefore indicated that it is proposing to revoke earlier guidance issued to principal councils and replace it with a refreshed set of statutory guidance which reflects not only the legislative changes but also changes in the ways in which people can engage with their elected members and councils and the changes in technology which enable councils to conduct their business in different ways.

Issues

6. The Welsh Government, Local Government: Guidance for Principal Councils (draft) was issued for consultation on 17th March 2022 and is appended as **Appendix A** to this report [Local Government Guidance for Principle Council Consultation document - \(Final version\)](#).
7. The Committee will note that the draft Statutory Guidance covers a wide range of issues, falling within the remit of several different Council Committees, and is comprised of:
 - Section 1 – Statutory Guidance for Elected Members and their Support, Training and Development, including revised guidance on the timing of Council meetings
 - Section 2 – Statutory Guidance on Participation Strategies and Petition Schemes
 - Section 3 – Statutory Guidance on Political Governance, including revised guidance on Constitutions and a new Constitution Direction setting out the prescribed contents of council constitutions, Council Executives (covering Job Sharing and Assistants to the Cabinet), Scrutiny Committees, Democratic Services Committees and Governance and Audit Committees.
8. The deadline for consultation responses was 22nd July 2022.
9. The Standards and Ethics Committee, at its meeting on 22nd June 2022, considered the consultation, specifically consultation question 6 in relation to the Members' register of interests, and provided their response.
10. As very few other Committee meetings had been scheduled during the consultation period, which coincided with the period leading up to, and immediately following, the May 2022 local government elections, officers consulted with relevant Members, including the Constitution Committee Chair, and compiled a composite response, which was emailed to all members of relevant Committees prior to submitting the

response on behalf of the Council. The Council's consultation response is attached for information as **Appendix B**.

11. It was noted that significant pre-consultation processes had been undertaken with a range of Council stakeholders prior to the formal consultation being released, which resulted in many of the stakeholder concerns being reflected in the final draft of the Statutory Guidance. On this basis, other stakeholders within the Council indicated that no further response was necessary for this consultation.
12. The Welsh Government has indicated its intention to publish the statutory guidance and constitution direction in the autumn of 2022, with the aim of incorporating this guidance and other relevant existing guidance into a much larger 'guide' which has to date been described as the 'Democracy Handbook'.
13. Pending the issue of the finalised Statutory Guidance, the various provisions of the draft Guidance are being carefully considered by all relevant decisions makers and officers in the Council within their respective areas of responsibility. Accordingly, the Committee will note that the provisions of the draft Statutory Guidance are reflected in other reports to the Committee on specific matters, for example, in the 'Constitution Update' report (agenda item xx) and the 'Review of the Rules relating to Council and Cabinet Meetings and the Constitution' report (agenda item 8). Across the Council, good progress is being made with implementing arrangements to reflect the draft Guidance as appropriate. However, further consideration will be required once the draft Guidance is finalised.

Financial Implications

14. There are no direct financial implications arising from this report.

Legal Implications

15. Relevant legal implications are set out in the body of the report and the draft Statutory Guidance attached as **Appendix A**.

RECOMMENDATION

The Committee is recommended to note the provisions of the Local Government: Guidance for Principal Councils (draft), set out in **Appendix A** and the arrangements being made to take account of it; and provide any appropriate comments.

Davina Fiore

Director of Governance and Legal Services and Monitoring Officer

3rd November 2022

Appendix A - Welsh Government Consultation Document - Local Government: Guidance For Principal Councils

[Local Government Guidance for Principle Council Consultation document - \(Final version\)](#)

Appendix B - Consultation Response submitted by Cardiff Council (to the Welsh Government Consultation: Local Government: Guidance for Principal Councils

Background papers:

Constitution Committee reports, 'Multi-Location Meeting Arrangements', 'Council Petition Scheme', 'Constitution Guide', and 'Constitution Update', 28 February 2022

Standards and Ethics Committee report, 'Draft Statutory Guidance on Standards of Conduct and Disclosure of Members' Home Addresses in the Members' Register of Interests', 22 June 2022

Email from the Head of Democratic Services to All Members of the Constitution Committee and Democratic Services Committee, 'WG Consultation – Draft Response', 20 July 2022

Various email correspondence between the Head of Democratic Services and the Internal Audit Manager and Head of Performance and Partnerships, July 2022