

EXTRACT OF THE STATUTORY GUIDANCE SHOWING CHANGES RELATING TO THE DEMOCRATIC SERVICES COMMITTEE

1. This statutory guidance for Democratic Services Committees was made under Sections 8 (1A) and 16 of the Local Government (Wales) Measure 2011 (the Measure). This guidance replaces previous guidance issued in 2012 and provides assistance to principal councils in the effective running of their Democratic Services Committees.
2. The guidance is summarised at below with the key changes identified in bold.

Introduction:

- The purpose of the committee is to ensure those councillors outside the executive leadership have the support and resources to fulfil their duties and play a full role in the operation of the local authority.
- **This is critical to good governance and enabling the council to demonstrate it is effectively supporting and resourcing scrutiny as part of its duties relating to keeping performance under review and consulting local people on performance. It is also critical to enable both scrutiny and elected members in their representational role to engage with the public thus contributing to meeting the duties in relation to encouraging local people to participate in decision making and participation strategies.**

Head of Democratic Services

- **Section 8(1A) enables the Welsh Ministers to issue statutory guidance to councils about the exercise of their function in relation to the provision of staff, accommodation and other resources which are, in the council's opinion, sufficient to support the HDS in discharging their functions.**
- The person designated as HDS must be designated by the Democratic Services Committee and must not be the Council's Chief Executive or chief finance officer. **Section 161 of the 2021 Act removed the prohibition on a council designating the same officer as Monitoring Officer and Head of Democratic Services (HDS).**
- The post of HDS is a politically restricted post within the meaning of the Local Government and Housing Act 1989 (section 21) **and the designated officer is defined as a chief officer for the purposes of the Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended.**

Committee Membership

- The full council must appoint the members of the DSC, which must consist solely of councillors and cannot include more than one member of the executive **or assistant to the executive**. Any executive member must not be the council leader. The rules concerning allocation of seats to political groups apply to the DSC.

Reports

- Any report presented to the DSC by the HDS must be considered by the DSC within three months. Similarly, any report made by the DSC must be considered by the full council within three months (sections 18 and 19). **The procedures relating to the operation of the DSC should be included in the council's constitution.**

Designating the Head of Democratic Services

- Only the DSC or a sub-committee of the DSC can designate the HDS. How this operates in practice will vary and a DSC can decide itself how it wishes to do this. **However, the expectation is there would be discussion with the Chief Executive and relevant member(s) of the council executive, for example, to agree whether the post should be advertised externally, in which case the procedures for appointing staff described in the council's standing orders must be followed.**

Making Recommendations on the adequacy of the provision of staff, accommodation and other resources

- It is the function of the DSC to consider, and make recommendations as to, the adequacy of the provision of staff, accommodation and other resources for the exercise of the functions which fall to the HDS. The functions known in many local authorities as members' services, committee services and overview and scrutiny support would fall within the HDS responsibilities.

The HDS must present a report to the DSC describing what they feel to be a reasonable level of support for democratic services functions. The DSC, however, cannot make the final decision on these matters. It must submit its own report to the full council, arguing the case for necessary resource. It may well be that full council will modify or reject the DSC's report, in which case it could be advisable for the DSC to consider alternative proposals, which may involve a period of negotiation involving the HDS, Chief Finance Officer and the appropriate executive member.

In considering the DSC's recommendations the council should take into account the contribution the work of the HDS and the DSC make to the good governance and effective democratic accountability of the council, including the contribution this work makes to the council meeting its

duties relating to the duty to encourage local people to participate in decision making and its strategy on public participation and its contribution to keep its performance under review and consult with local people on performance. Ensuring all members are adequately supported and trained, that scrutiny is adequately resourced and committees have access to high quality analysis and information is a cost of effective democracy. It is noted councils will have competing pressures for resources, including for essential front line and statutory services, careful consideration of cumulative impacts of resourcing erosion or reductions in relation to democratic services should therefore be part of considerations on the DSC Committee's report.