



Llywodraeth Cymru
Welsh Government

The Local Government and Elections (Wales) Act 2021: Statutory Guidance for Community and Town Councils

Mae'r ddogfen hon ar gael yn Gymraeg hefyd /
This document is also available in Welsh

OGL © Crown Copyright

Audience

This guidance document is aimed at members and officers of community and town councils in Wales.

Overview

The Local Government and Elections (Wales) Act 2021 (“the 2021 Act”) provides for the establishment of a new and reformed legislative framework for local government elections, democracy, governance and performance. The legislation affects the community and town council sector and the key changes are explained in this guidance.

This guidance is intended to support community and town councils to implement the relevant provisions from the 2021 Act.

Action required

Community councils must have regard to this guidance when acting in their functions as local authorities.

Legislation

A council must have regard to guidance issued by the Welsh Ministers in relation to the exercise of its functions in the 2021 Act under:

- Part 2, Chapter 2, section 36 (guidance on the exercise of functions in relation to eligible community councils);
- Part 3, Chapter 4 section 48 (3) (guidance may cover what constitutes a reasonable opportunity to make representations, and what constitutes effective conduct of a meeting), and Chapter 5 section 52(2) (power to issue guidance on annual reports);
- Part 4, section 67 (7) (the power to issue guidance on community council training plans).

This means that councils must take account of the guidance, and if they decide to depart from it, have clear and justifiable reasons for doing so.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Enquiries about this document should be directed to:

Local Government Performance & Partnerships Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

e-mail: LGPartnerships@gov.wales

This document is also available in Welsh: [\[LINK\]](#)

FOREWORD

The Local Government and Elections (Wales) Act 2021 delivers a package of reforms to strengthen and extend the powers available in local government.

The legislation builds on the strengths of local government to empower councils to have greater impact for their communities. Welsh Government's policy is to provide an enabling and encouraging environment for community and town councils to expand their activities where they could – and should – play a greater role based on local need.

The enabling approach needs to be accompanied by sound governance and effective management of public money. It is important that councils are professionally-supported, professionally-run organisations with access to support and guidance.

The new measures directly affecting the community council sector includes the availability of the General Power of Competence to those councils that meet the eligibility conditions set out in the legislation.

In addition to the new power, new duties are also placed on community and town councils. The duty to make and publish a training plan for all members and staff will support efforts to strengthen the capability of the sector. The new duty to produce and publish an annual report will provide greater transparency and understanding about the council's work to their local communities. I expect to see greater community participation in council meetings as members of the public are given reasonable opportunities to contribute their views.

Other provisions to modernise the governance rules for councils enable meeting papers to be issued electronically and to allow council meetings to be held from multiple locations.

This package of measures, and supporting guidance, is intended to ensure councils have the strength and scope to work in the best interests of the communities they serve. The aim is to support them to deliver good quality, integrated public services in communities across Wales.

Rebecca Evans MS
MINISTER FOR FINANCE AND LOCAL GOVERNMENT

Contents

Introduction	6
Purpose of the provisions	6
Important Dates	6
1. Chapter 1 - General power of competence and eligible community councils.....	7
Applying the General Power of Competence	7
Eligibility conditions	8
Exercising the general power of competence for a commercial purpose	10
Power to trade in ordinary functions.....	11
Boundaries of the general power of competence	12
Annual review of eligibility.....	13
Ceasing to be eligible	13
What happens to agreements entered into by an eligible community council and then the council ceases to be eligible?	14
Common Community Councils.....	14
Section 137 of the Local Government Act 1972 and Community and Town Councils	15
Whether to use section 137 or resolve as eligible for the General Power of Competence ... Error! Bookmark not defined.	
The Local Government Act 2000 - Well-being Power	16
Impact of exercising the General Power of Competence	16
Case studies	16
2. Chapter 2 – Multi-location meetings	17
What are the requirements?	17
What should the arrangements consider?	18
Welsh language.....	19
3. Chapter 3 - Participation at Meetings.....	20
4. Chapter 4 - Annual Reports	21
Timing of annual reports.....	21
Content of annual reports.....	21
Approving the annual report	23
Publication of the annual report.....	23
Learning from others in preparing the annual report	23
5. Chapter 5 - Training Plans	25
Purpose of the training plan	25
Training needs analysis	25

Agreeing and publishing the training plan.....	26
Training for employees of more than one community council	26
Review of training plans.....	27
Publication	27
6. Chapter 6: Other provisions impacting community and town councils	28
Notices of meetings of community councils.....	28
Proceedings of community council meetings	28
Community petitions	29
Elections.....	29
Meetings in licensed premises.....	30

Introduction

The Local Government and Elections (Wales) Act 2021 ("the 2021 Act") was passed on 20 January 2021. It provides for the establishment of a reformed legislative framework for local government elections, democracy, governance and performance.

The legislation affects the community and town council sector and the key changes are explained in this guidance. The 2021 Act gives qualifying local authorities, including eligible community councils, a general power of competence. This guidance supports community and town councils to consider the requirements they need to meet should they wish to become eligible community councils.

This guidance also provides information to help all councils discharge their new duties in relation to the following requirements:

- Access meetings from multiple locations;
- Provide opportunity for public participation at public council meetings;
- Prepare and publish an annual report;
- Prepare and publish a training plan to support training for councillors and council staff; and
- Other provisions which impact on community and town councils.

Purpose of the provisions

There is support across the sector and from the public for increasing the visibility of the work of community councils. We want communities to take an interest in what their councils do and to have easy access to information on the council's work. The requirements in relation to annual reports, training plans, multi-location meetings and public participation are designed to support this intent.

There is also support to empower community councils to enable them to be more innovative and ambitious when delivering for their community. The provisions allow that where a council meets certain criteria, specified by legislation, they can resolve themselves as 'eligible community councils', able to exercise a general power of competence.

Important Dates

Provisions in the 2021 Act came into force on different dates. The coming into force dates are listed below:

- Duty on councils to publish annual reports – 1 April 2022
- Eligibility to be able to exercise the general power of competence for the community and town council sector – 5 May 2022
- Duty to make opportunity for public to participate in council meetings – 5 May 2022
- Duty to consider training for councillors and council staff – 5 May 2022, with first training plan to be published by 5 November 2022.

1. Chapter 1 - General power of competence and eligible community councils

Applying the General Power of Competence

- 1.1. The general power of competence (GPoC) permits qualifying authorities to do “anything that an individual generally can do”. It is a power of first resort which means that a qualifying authority does not need to rely on specific powers in legislation to do something, so long as what is intended is not otherwise prohibited. The use of the GPoC is subject to restrictions and legal requirements which are described in this guidance. Where there are restrictions on the use of an existing specific power, those restrictions will also apply to the use of the GPoC.
- 1.2. An ‘eligible community council’ is a qualifying authority is defined in section 24(1) of the 2021 Act.
- 1.3. The GPoC enables eligible community councils to act in their communities’ best interests, generate efficiencies and secure value for money outcomes. Eligible community councils will also be able to raise money by charging for discretionary services and to trade for commercial purposes and in their ordinary functions.
- 1.4. The general power of competence gives eligible community councils the same powers to act that an individual generally has, thus enabling them to do similar sorts of things. For example, an individual *could not* impose taxes on other people – so a community council *could not* use the GPoC to raise taxes. However, an individual *could* run a community shop or a post office, so a community council *could* also set up a shop.
- 1.5. The GPoC allows an eligible community council to engage in commercial activity if it sets up a company or co-operative society for this purpose. This is explained more fully in the section on exercising the GPoC for a commercial purpose.
- 1.6. The kinds of activities that the GPoC could be used for include:
 - Lending or investing money e.g. to support village or town activities, or to support and generate local businesses;
 - Providing discretionary support and activities e.g. taking over youth facilities or offering organised support (such as reading/numeracy assistants to schools);
 - Generating and selling green energy;
 - Building and providing a range of community facilities.
- 1.7. However, if another authority (i.e. the principal authority) is under a statutory duty to provide that service (e.g. library services, education, waste collection), then while it shall remain the principal council’s duty, eligible community councils can still help.

Eligibility conditions

1.8. The 2021 Act sets out the conditions which community councils must meet to become an '*eligible community council*' with access to the GPoC. Only councils which meet the eligibility conditions can use this general power. The three conditions are specified in the 2021 Act, [section 30 \(2\)-\(4\)](#) and are set out below:

- At least two-thirds of the total number of members of the council have been declared to be elected (including unopposed), whether at an ordinary election or at a by-election (section 30(2)).
- The clerk to the council holds such named qualification or certification as may be specified by the Welsh Ministers by regulations (section 30(3)).
- The two most recent Auditor General for Wales (AGW) opinions on the council's accounts are unqualified. The most recent must have been received in the previous 12 months (section 30(4)).

1.9. The three conditions, collectively, serve as indicators that a community council represents the views of its electorate, that the council has a recent history of sound governance and that its clerk has the core knowledge, skills and understanding to support a community council in the exercise of the new general power. This provides a level of confidence in a council's ability to execute the GPoC appropriately.

1.10. Where a community or town council wishes to exercise the GPoC it must resolve itself eligible through a formal resolution. A community council must meet the eligibility conditions set out above and pass a resolution at any full meeting confirming that it meets those conditions. It then resolves itself as an eligible community council able to exercise this general power. In accordance with paragraph 26ZA of Schedule 12 to the Local Government Act 1972 ('the 1972 Act') – as inserted by Schedule 4, Part 1 of the 2021 Act – the outcome of the decision to become an eligible community council *must be published on the council's website within seven working days of the resolution being passed*.

1.11. These conditions will be kept under review and there is scope, under section 35 of the 2021 Act, for the Welsh Ministers to amend the conditions. Any proposed changes to these conditions would be made by the Welsh Ministers making regulations and subject to consultation prior to being made.

The Three Conditions

Condition 1: Proportion of elected members

1.12. This condition reflects the principle that a council which exercises the GPoC should reflect the democratic views of the community. Local services are best provided within a democratic framework of local accountability. People who use local services should have as much say as possible in the way they are managed and delivered.

1.13. The condition is for at least two-thirds of members to be elected. This includes those elected at by-elections and those elected unopposed. This means that the minimum number of elected councillors must be a whole number equal to,

or higher than, two-thirds of councillors. For example, a council with nine councillors must have at least six elected councillors.

1.14. Where this is not a whole number, then it must be rounded up. The table below confirms the number of elected councillors required to meet this condition.

Council seats	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Two-thirds	4	4	5	6	6	7	8	8	9	10	10	11	12	12	13	14

Condition 2: Relevant clerk qualification

1.15. This condition reflects the importance that any council which exercises the GPoC needs to be sufficiently supported when doing so.

1.16. The Certificate in Local Council Administration (CiLCA) is widely recognised by the sector as providing a broad knowledge of all aspects of the community council clerk’s work, role and responsibilities, including the law, council procedures, finance, planning and community involvement.

1.17. In accordance with the Eligible Community Councils (General Power of Competence) (Qualifications of Clerks) (Wales) Regulations 2021 (‘the 2021 Regulations’) which came into force on 5th May 2022, the clerk to the community council must have obtained at least one of the following, at the time, or before the council passes a resolution that it meets the criteria and is an eligible community council:

- The Certificate in Local Council Administration (CiLCA)
- The Certificate of Higher Education in Community Governance
- The Certificate of Higher Education in Community Engagement and Governance
- The Certificate of Higher Education in Local Policy.

1.18. At the time of the council passing a resolution to be an eligible community council, it would be insufficient to declare that the clerk is currently undertaking one of the above; or intending to undertake one at a future date. It will also be insufficient to say that a deputy clerk holds CiLCA. It must be the recognised proper officer of the council that holds the CiLCA qualification.

1.19. Clerks who gained any of the above sector specific qualifications before May 2022 are advised to undertake additional training to confirm that they understand how the GPoC operates. The Society of Local Council Clerks provide a standalone training module GPoC. Clerks who hold a CiLCA certificate without this module would benefit from completing this prior to the council passing a resolution that it is an eligible community council.

1.20. The clerk qualification is only required for those councils who wish to resolve themselves as eligible to exercise the GPoC. There is no general requirement for community or town council clerks to be qualified, although clerks are encouraged to attain CiLCA for the benefit of supporting the council.

Condition 3: Audit opinions

- 1.21. Principles of transparency, professionalism and public accountability should be followed in all financial procedures of community councils. Adherence to an appropriate audit regime and the production of an annual financial statement should be cornerstones of a council's financial management practices.
- 1.22. To meet this condition, the council must have received two unqualified auditor's opinions for two consecutive financial years from the Auditor General for Wales (AGW) – the latest of which must have been received during the 12 months ending on which the community council's resolution is passed.
- 1.23. Community councils which have recent qualified audits will not be eligible to exercise the GPoC.
- 1.24. By way of illustration, at the community council annual meeting in May 2022, the council would normally have confirmation of the outcome of the AGW's audit opinion for the financial years 2019-20 and 2020-21. This is subject to the council providing the external auditor with all the co-operation, relevant information and evidence, in a timely manner, for the AGW to provide an audit opinion.
- 1.25. Therefore, provided that the audit opinion is unqualified for both financial years 2019-20 and 2020-21, this condition would be satisfied. If either of the opinions is qualified, then the condition cannot be satisfied, and the council *cannot pass a resolution* that it is an eligible community council.
- 1.26. In future years, annual consideration of the third condition means that the relevant audit opinion taken into account will continue to change. For instance, in 2023, consideration of this condition would rely on the audit opinions from 2020-21 and 2021-22.

Future changes to the audit regime

- 1.27. Audit Wales has given notice that the audit regime is due to change in 2022. This does not affect the way in which the third condition is assessed as audit opinions will continue to be issued each year by the AGW. This is subject to the absence of major governance and record-keeping problems in councils, and councils providing the AGW with all necessary co-operation, relevant information and evidence, in a timely manner, for AGW to provide the audit opinion.

Exercising the general power of competence for a commercial purpose

- 1.28. An eligible community council may use the GPoC to carry out an activity for a commercial purpose. However, the council may only do so if it would also rely on this general power to carry out that activity for a non-commercial purpose i.e. it could not charge for an activity that it is required, by legislation, to carry out. For example, a council which currently maintains its own lawns and grounds may want to use the GPoC to be able to offer their services to local sports grounds for a fee.

- 1.29. An eligible community council is required to undertake any trading operations through a company (as defined in section 1(1) of the Companies Act 2006 or a registered society as defined under the Co-operative and Community Benefits Societies Act 2014). Those companies must meet the requirements for establishing and running a company.
- 1.30. Eligible community councils must take adequate steps to consider the implications of their proposed exercise of the power for a commercial purpose. The specific conditions are set out in the [General Power of Competence \(Commercial Purpose\) \(Conditions\) \(Wales\) Regulations 2021](#) as amended by the [General Power of Competence \(Commercial Purpose\) \(Conditions\) \(Wales\) \(Amendment\) Regulations 2022](#) (“the 2022 Regulations”) and provide that:
- Before exercising the power, an eligible community council must prepare and approve a business case in support of the proposed exercise of the power. The above regulations set out the requirements for the business case.
 - Where the eligible community council has supplied anything to the company through which the GPoC is being exercised for a commercial purpose, the council must recover its costs from that company.
 - The business case must be published as soon as practicable after the decision is taken to approve it.
- 1.31. For instance, a council may wish to open a local shop or café. While an eligible community council might reasonably support the start-up of a company for this purpose, it should recover the costs of doing so. These costs could include accommodation, goods, services, staff or anything else to help set-up the shop or café. Ongoing subsidy or funding could both distort the market unfairly and could also lead to public funds being placed at undue commercial risk.

Power to trade in ordinary functions

- 1.32. The [Local Government \(Relevant Authorities\) \(Power to Trade\) \(Wales\) Order 2022](#) (“2022 Order”) came into force on 5 May 2022 to extend to eligible community councils. This provides eligible community councils with a power to trade in all services, so long as they are not required by law to provide them. An authority’s power to trade in their ordinary functions is provided for in section 95 of the Local Government Act 2003.
- 1.33. As with exercising the general power for a commercial purpose, where an eligible community council intends to use the power to trade in its ordinary functions, it must prepare, approve and publish a business case.
- 1.34. The ordinary functions of a community council are the functions set out in Acts of Parliament, and Measures or Acts of the Senedd, e.g. powers to provide allotments, to provide and maintain bus shelters, and the power to promote local energy saving schemes. They do not include delegated functions that some community councils operate under agreement from their principal council e.g. library services.

The business case

- 1.35. A business case must be prepared prior to a community council using the *general power for commercial purposes* or the *power to trade in their ordinary functions*. The purpose of the business case is to be transparent that a reasonable assessment of the proposal has been made and agreed by the council.
- 1.36. Business cases should be proportionate to the complexity of each case and the scale of investment being considered. There should be a clear audit trail showing that the community council has acted within its powers. All business cases must be published as soon as practicable following the council decision to approve it.
- 1.37. Appropriate guidance on preparing a business case will depend on the nature of the proposal, and ‘no one size’ will fit all circumstances. However, under the 2022 Order, a business case must include the following elements:
- The aims and objectives of the proposed exercise of the GPoC;
 - The costs, investments and other resources required to achieve those aims and objectives;
 - The financial outcomes that are expected to be achieved;
 - Any other relevant outcomes that are expected to be achieved;
 - Any risks associated including an assessment of the severity of those risks, and any mitigating actions;
 - The impact (including on the terms and conditions of employment) on any staff that it intends to supply to a company to do things for a commercial purpose.
- 1.38. The regulations do not specify an individual accountable for approving the business case – only that it is for the council to provide that approval. The matter is to be decided locally. However, it is recommended that it is made clear to members as well as the public how the approval process works, for example, through the council’s standing orders or schemes of delegation.

Boundaries of the general power of competence

- 1.39. The GPoC does not allow community councils to bypass prohibitions, limitations or restrictions contained in existing legislation. The need for due diligence and robust, transparent decision-making remains. Moreover, councils will want to ensure they have sufficient community support and funding before using the power.
- 1.40. When exercising the GPoC, eligible community councils must act in accordance with the principle established in the case of *Associated Provincial Picture Houses Ltd v Wednesbury Corporation (1948) 1 KB 223* (known as the *Wednesbury case*). The judgement in that case made it clear that a council can exercise reasonable discretion when interpreting legislation provided that it justifies its decision in terms of relevant, rather than irrelevant, matters.
- 1.41. Where a council is already subject to a statutory duty, then that duty remains in place. The GPoC For instance, section 6 of the Environment (Wales) Act 2016 imposes a duty on public authorities, including community councils, “...to

maintain and enhance biodiversity in the exercise of their functions, promote the resilience of ecosystems (known as the Biodiversity and Resilience of Ecosystems duty). . A comprehensive list of statutory duties which apply to community and town councils can be found in the [Good councillor's guide: for Community and Town Councillors.](#)

- 1.42. The council must continue to comply with existing legislation such as employment law, health and safety legislation, equality legislation and the duties relating to data protection and freedom of information.
- 1.43. Eligible community councils cannot use this GPoC primarily to raise money, but they can receive income as a result of using the power for a different primary purpose. For example, the council could lend money to support a local activity and earn interest on the loan and it could also raise sponsorship for a community project.
- 1.44. Through the 2021 Act and associated subordinate legislation, there are other appropriate constraints on the use of the GPoC, including the following:
 - The requirement for a company structure when using the general power for a commercial purpose, and a business case which considers the costs, benefits and risk of each proposal;
 - Limitations on fees and charges for discretionary services; and
 - Checks for pre- and post-commencement limitations (whereby a specific power may be identified). For example, the GPoC power cannot be used to re-write or ignore any parts of express statutory powers and duties.

Annual review of eligibility

- 1.45. Under section 31(1) of the 2021 Act, once a community council has resolved itself to be an eligible community council, it will need to reaffirm on an annual basis that it continues to meet the eligibility criteria. A council can do this by passing a resolution to this effect at its annual meeting.
- 1.46. In the case of a council which has appropriately resolved itself to be eligible at the first available annual meeting following commencement of the 2022 Regulations on 5 May 2022, it will retain that status until its next annual meeting. This would provide the council, and those they deal with, certainty as to the extent of their powers.
- 1.47. Part 1, Schedule 4 to the 2021 Act amends paragraph 26ZA of the 1972 Act to require councils to publish the outcome of decisions within seven working days of the council meeting. Therefore, the outcome of the decision to continue either as an eligible community council, or not, must be published on the community council's website to the same timetable. This provides clarity for the council, and those it deals with, on its ability to exercise the general power.

Ceasing to be eligible

- 1.48. A community council may decide that, despite meeting the conditions, it no longer wishes to be an eligible community council. An eligible community council may pass a resolution at any meeting of the council that it is no longer eligible. The council would then cease to be an eligible community council at

the end of the day following the meeting at which the resolution was passed. In which case it must publish its decision that it is no longer an eligible community council within seven working days of taking the decision (Section 32 of the 2021 Act).

1.49. Under section 31(2) of the 2021 Act, if the council does not pass a resolution at the appropriate annual meeting that remains an eligible community council then it ceases to be one at the end of the day following the annual meeting in question. It will not be able to exercise the GPoC until it resolves itself eligible, which may be at the next council meeting.

What happens to agreements entered into by an eligible community council and then the council ceases to be eligible?

1.50. Section 33 of the 2021 Act provides that, if an eligible community council which ceases to be an eligible community council (and so loses the general power competence) can continue to rely on the GPoC in relation to things it has done in the exercise of that power while it was an eligible community council, e.g. to deliver services or undertake activities, even though it had ceased to be eligible.

1.51. However, the council could not enter into a new contract or change an existing arrangement so that it became qualitatively different from how it was while the council was still eligible.

Common Community Councils

1.52. Under sections 27E and 27F of the 1972 Act, communities have the power to apply for an order grouping its community with other communities under a common community council.

1.53. In circumstances where such a common community council is formed after 20 January 2021 following an Order made under section 27F of the 1972 Act, it is in effect a new council.

1.54. In this case, a newly formed common community council could potentially meet two of the three eligibility conditions relating to:

- The proportion of elected members - since the order made by the principal council would make provision for an election under the 1972 Act, section 27F(5)(a); and
- Employment of a clerk who holds one of the relevant qualifications specified in the 2021 Regulations.

1.55. However, they would be unable to satisfy the third eligibility condition regarding the two most recent opinions of the Auditor General for Wales for at least two years.

1.56. To address the anomaly, this condition does not apply to the common community council where at least half of the communities grouped together to form the new common community council had separate community councils immediately beforehand which met this third condition.

1.57. However, if the first opinion of the Auditor General for Wales of the common community council is a qualified audit opinion, then the common community council ceases to be an eligible community council with immediate effect.

Section 137 of the Local Government Act 1972 and Community and Town Councils

1.58. Section 137(1) of the 1972 Act has been retained for community councils that do not wish to resolve themselves as eligible community councils, or are not yet able to satisfy the eligibility conditions.

1.59. A community council which does not resolve itself as an eligible community council will still be able to use the current power under section 137(1) of the 1972 Act. This power permits community councils to spend a limited amount of money on activities for which it has no other specific powers. They may only do this if the council considers that it will be for the direct benefit of its area, or part of its area, or all or some of its inhabitants. Community councils are also permitted under section 137(3) to incur expenditure for certain charitable and other purposes.

1.60. The maximum expenditure is calculated annually. The appropriate sum for the purposes of section 137(4)(a) is calculated by applying the formula set out in Schedule 12B to the 1972 Act.

1.61. Once a council resolves itself an eligible community council, section 137 of the 1972 Act no longer applies to the council as the GPoC – under section 24 of the 2021 Act – is less limiting. If a council ceases to be eligible to exercise the GPoC, section 137 of the 1972 Act will once again apply to that council.

1.62. It should be noted that neither the GPoC nor section 137 of the 1972 Act can be used to circumvent a statutory prohibition on a community council carrying out a particular function.

1.63. Section 137 of the 1972 Act is more constrained than the GPoC because it covers activities incidental to community councils' functions. More fully, this means that section 137 of the 1972 Act limits a community council's expenditure to areas which, in their opinion, is in the interests of and will bring direct benefit to, their area or any part of it or all or some of its inhabitants.

1.64. As noted in the previous section, in order for section 137 of the 1972 Act used as the basis to undertake an action, the direct benefit accruing to the community council's area (or any part of it or to all or some of the inhabitants of its area) has to be commensurate with the expenditure incurred Expenditure is subject to existing financial restrictions. There is no spending limit when relying on the GPoC.

1.65. While the GPoC requires qualifying criteria to be met by the community council before it can resolve itself eligible to exercise that power, section 137 of the 1972 Act does not require specific criteria to be met before a community council is eligible to exercise the power.

The Local Government Act 2000 - Well-being Power

- 1.66. The Local Government Act 2000 (“the 2000 Act”) introduced the “well-being power” which enabled local authorities to do anything that they consider is likely to promote or improve the economic, social or environmental well-being of their area and/or the persons in it, provided that they are not restricted from doing so by other legislation. This power for community councils came into force in Wales on 11 May 2011.
- 1.67. Having three general powers in law is confusing and unnecessary, and has been reported as such by the sector.
- 1.68. Therefore, the ‘well-being power’ provided in section 2 of the 2000 Act was repealed for **all** community councils when the provisions relating to the GPoC were brought into force for eligible community and town councils on 5 May 2022.
- 1.69. Community councils can continue anything which they started, and is ongoing, under the well-being power at the time this power was repealed. However, reliance on this power should stop when that activity is completed or a council resolves to become an eligible community council. Nothing new may be started by the community council using the well-being power from 5 May 2022.

Impact of exercising the General Power of Competence

- 1.70. Over time it is intended to take stock of the number of community councils resolving themselves eligible to exercise the GPoC, and the purposes for which they use it. The National Training Advisory Group, which meets quarterly, will assess the impact of the provisions at key points. They will draw on evidence from surveys, annual reports of community councils, and monitoring the uptake of the CiLCA training.

Case studies

- 1.71. As of the publication of this statutory guidance, there are no examples from community councils in Wales to illustrate how the GPoC may be used. However, [case studies of parish councils](#) exercising the GPoC may be found from the [Local Government Association](#) website.

2. Chapter 2 – Multi-location meetings

- 2.1. The [Local Authorities \(Coronavirus\) \(Meetings\) \(Wales\) Regulations 2020](#) made temporary changes to meeting arrangements for community councils, allowing meetings to be held virtually (i.e. multi-location meetings) and requiring meeting documents to be published electronically. These changes allowed meetings to continue during the coronavirus pandemic. The changes proved popular and beneficial, so the Welsh Government made them permanent through the 2021 Act.
- 2.2. Many councils have found that attendance – including from the general public – and productivity of meetings have improved with multi-location meetings. There are also benefits in reducing travel and enabling councillors, members of the public and the press to engage more readily and more conveniently in council meetings.
- 2.3. Physical meetings should not be seen as representing the gold standard with multi-location meetings being second best. Physical meetings may be convenient and effective for some who are most used to them – but they may be inaccessible or inconvenient to many.

What are the requirements?

- 2.4. This section sets out the things that authorities must do in respect of multi-location meetings.
- 2.5. The 2021 Act requires that all community councils must make and publish arrangements for its meetings to enable people who are not in the same place to meet. Under the arrangements, councils will need to take reasonable steps to allow meetings to be held from multiple locations. If the arrangements are revised or replaced the new arrangements must also be published.
- 2.6. The practicalities of arrangements were considered carefully and it is important for councils to be clear the ***minimum requirement is that members are able to hear and be heard by others.***
- 2.7. Examples of this could include:
 - All participants are in the same physical location;
 - All participants are in the same physical location except one individual who joins from another location e.g. by video or telephone conference;
 - Roughly equal number of councillors are present in a physical space and joining through remote means;
 - Wholly through remote means where no physical arrangements have been made.
- 2.8. Whilst physical meetings in the same location are allowable under the 2021 Act, councils must note that the 2021 Act requires that participants (i.e. council members, members of the public and press) are able to join meetings remotely – even if physical meetings are the preferred mode. Councils must publish these arrangements, for example, through standing orders. Councils are not

allowed to resolve that all meetings will be held entirely physically. Councils should take reasonable steps to allow people to join from another location.

What should the arrangements consider?

2.9. The arrangements must be relevant to your council. They should be consistent with the Nolan principles of public life, the Code of Conduct for members of community councils and must take account of prevailing public health advice and/or legislation.

2.10. It is suggested that arrangements should cover:

- How a council will determine which meetings will have a physical element (i.e. a council meeting room) and how remote access will work in those cases;
- The venue for physical meetings and (if relevant) the appropriate online meeting platform and/or telephone access. This may require councils to consider the most appropriate venue for future meetings and value for money for any upgrades to infrastructure.
- Meeting attendance, including determining where a member is present and voting procedures;
- Ways of working during the meeting e.g. whether and how to use the chat function where appropriate, managing unruly conduct and voting;
- Arrangements to support other participants (including the public and the press) to be able to access and participate in the meeting. This might include virtual waiting room arrangements to ensure appropriate and timely access; and
- Ensuring the meeting is inclusive and accessible and consistent with any Welsh Language Scheme adopted by the council.

2.11. There is no requirement for meetings to be held in the same way every time it meets.

2.12. The chairing and running of the meetings will be slightly different depending on whether it is fully physical, fully virtual or a hybrid meeting. Arrangements need to adapt as councils learn from experience (i.e. from other councils and their own community) of what works effectively in securing clear, transparent, accessible meetings.

2.13. When deciding which meetings may be held wholly remotely and/or with physical provisions, councils should consider:

- The circumstances of individual councillors and their preference in the way they participate in meetings. Some councillors may wish to join council meetings from another location by default – because they have working or caring responsibilities which make attending meetings in person difficult. Similarly, some councillors may wish to attend in person;
- How members of the public are able to access meetings. There may be very good reasons why individuals are not able to attend in person, but would nonetheless wish to listen to proceedings about decisions which impact their

lives. They may also wish to be heard in expressing views on business items;

- The accessibility of the press to hear about, and report on, local stories to enable wider public debate and accountability;
- The range of venues available within reasonable travelling distance. For instance, local schools or other public sector buildings may have infrastructure which makes remote access easier;
- How telephony and other technology can be used to support and facilitate multi-location meetings which is proportionate to the circumstances; and
- Whether arrangements can be adapted to accommodate late requests (e.g. just prior to, or during, the meeting) to join virtually where a meeting had been expected to be physical only, ensuring that the minimum standards are met - where reasonable

Welsh language

2.14. Although community councils are not subject to the Welsh language standards deriving from the Welsh Language (Wales) Measure 2011, they are expected to uphold the main principle of the Measure and treat the Welsh language no less favourably than English. The community council will want to consider how it could encourage and enable the use of the Welsh language at community council meetings, with the help of simultaneous translation for anyone who does not understand Welsh.

2.15. The Welsh Language Commissioner has provided advice on how to support bilingual working including:

- [Bilingual drafting](#),
- [Text translation](#);
- [Using Welsh face-to-face](#); and
- [Holding bilingual video meetings](#).

3. Chapter 3 - Participation at Meetings

- 3.1. In practice, many councils have already introduced formal or informal ways for public participation in their meetings. Prior to the passing of the 2021 Act, members of the public had a statutory right to attend council meetings of community councils, but could only speak at the discretion of the person presiding at the meeting.
- 3.2. Section 48 of the 2021 Act makes provision for public participation at full community council meetings or those part of meetings which are open to the public. The person presiding over the meeting must give members of the public in attendance a reasonable opportunity to make representations about any business to be discussed at the meeting, unless doing so is likely to prejudice the effective conduct of the meeting. This does not mean that members of the public can take part in debate, but they must be given *a reasonable opportunity to make representations about business to be discussed*.
- 3.3. One option for managing this is to invite members of the public in attendance to contribute views on business items where relevant, and to apply a reasonable time limit. Chairs may wish to ask members of the public to signal in advance which items they wish to address. It is respectful to acknowledge and respond to those additional contributions as they reflect opinions from engaged members of the community.
- 3.4. Members of the public may slightly overrun and should be given reasonable time to conclude. However, if they disrupt the conduct of the meeting and make it difficult to continue, the Chair may wish to consider procedures for stopping that disruption, including formal warning to stop, pausing the meeting and/or removal of the source of disruption.
- 3.5. In the interests of transparency, impartiality, and resolving potential misunderstandings, it is recommended that the rules about public participation in council meetings should be set out and published in the council's standing orders and made available on the council's website.

4. Chapter 4 - Annual Reports

- 4.1. There has been consistent support expressed by stakeholders to increase the transparency, and increase awareness, of the work of community councils.
- 4.2. For instance, one of the key findings of the independent review panel on community and town councils was the lack of visibility of community councils' activities. The panel found there was a significant need to increase awareness of the existence of community councils and their work within their communities, as well as a need for councils to engage with communities when making decisions.
- 4.3. Section 52 of the 2021 Act requires community councils, as soon as reasonably practicable after the end of each financial year, to prepare and publish an annual report about the council's priorities, activities and achievements over the previous year.
- 4.4. Community councils are currently required to prepare and publish other reports.
 - Section 6 of the Environment (Wales) Act 2016 ("the 2016 Act") requires all community councils to prepare and publish a plan every three years setting out what they propose to do to maintain and enhance biodiversity, and promote resilience. Under section 6(7) of the 2016 Act, the first such report was required to be published before the end of 2019 with all subsequent reports due for publication before the end of every third year after 2019.
 - Section 40 of the Well-being of Future Generations (Wales) Act 2015 requires some community councils to publish a report annually on the progress made in meeting the local wellbeing objectives in its area. The relevant councils are those with an annual turnover of £200,000 or more in the three financial years prior to the local well-being plan being published;
- 4.5. Community councils can choose whether to prepare separate reports or combine these into a single report.

Timing of annual reports

- 4.6. The first annual report will be required for the 2021-2022 financial year and will be due for publication as soon as reasonably practicable after 1 April 2022. Reports for future years should be published as soon as reasonably practicable after the end of each financial year.

Content of annual reports

- 4.7. The annual report forms part of a range of ways in which the council engages with its community, including through its council website, regular newsletters, consultations and social media.
- 4.8. Annual reports should provide information that strengthens the accountability of the council and increases transparency of the work undertaken. The annual report should be a proactive means of sharing information about the council's priorities, activities and achievements.

4.9. There is no template for a community council annual report as the format will reflect what the council does. The level of detail is expected to reflect the size and scope of council activity. It is an opportunity to show the work of the council, reflecting on the past year's activity and to look ahead to its plans for the coming year.

4.10. Although there is no template, councils may wish to consider the following information within its report.

Context

- Information on the organisation of the council
 - Councillors
 - Sub-committees and members
 - Key contact information
- Basic financial information, including (or linked to):
 - Relevant year's audited accounts, audit opinion and any related public interest report (if accounts are not yet audited, they should be labelled as unaudited)
 - The information presented should be compatible with the [Accounts and Audit \(Wales\) Regulations 2014](#).
- Relationship with the principal council
 - Status of formal charters or protocols to work with the principal council
 - Progress update on any potential assets or service transfers
- Training plan (the council may wish to reflect its training plan in this document)
- The number of complaints raised, what they related to and the outcomes (if relevant).
- Response to a Standards Committee annual report (*where any recommendations are made to that community council*).

Activities

- Key council objectives for the year
 - Progress against objectives
- Assets and services
 - Assets and services managed
 - Asset transfers in progress or completed
- The activities undertaken and planned to engage with its community
- Other community council reports (*through a composite report or links to other council reports*) i.e.
 - Well-being of Future Generations (Wales) Act 2015
 - Environment (Wales) Act 2016

Achievements

- High points of the year including the outputs and outcomes of key services or activities delivered during the year.
- Reflection on what worked well and not so well.
- Confirmation of eligibility to exercise the GPoC (if relevant)
 - How the council has used the power.

Priorities

- Planned activities for subsequent year
- Future budget requirements and how the priorities will be met, e.g. from precept, reserves or commercial activities through the GPoC (if exercising it).

4.11. This is not an exhaustive list of items that could be in the annual report. It is for councils to consider which aspects of their work are **relevant and proportionate** to communicate in its report.

4.12. In preparing the annual report it is good practice to consider how the work undertaken in the past year – and planned for the following year – reflects the five ways of working, as set out in the Well-being of Future Generations (Wales) Act 2015.

- Long term
- Integration
- Involvement
- Collaboration
- Prevention

Approving the annual report

4.13. The council may make its own arrangements for the preparation of various components of the annual report e.g. by staff or through committees. Once the report has been assembled it is for the full council to consider and approve; the approval decision cannot be delegated to a council committee or council officer.

Publication of the annual report

4.14. The publication of the council's annual report should be consistent with the wider approach to publication of council papers in Schedule 4 of the 2021 Act; i.e. that the report is published electronically on the community council website.

4.15. Where the community council has adopted a Welsh Language Scheme, those councils may have made a commitment through the Scheme to publish their annual reports in Welsh. Where no such scheme has been adopted, councils are encouraged to publish bilingually to provide a language choice to their community.

Learning from others in preparing the annual report

4.16. Many councils already publish reports about the work of their council, often titled as an 'annual report', for their local communities and reviewing the

approach other councils have adopted may assist councils in preparing their annual report

4.17. Reports vary in length, content, and presentation style but largely cover most of the items in paragraph 4.10.

4.18. If you are preparing your council's first annual report it may be useful to review some examples of other councils to help inform your council's approach. There is significant flexibility on the structure, format and medium of published annual reports. Your council will want to consider how to make it engaging and accessible for its community.

5. Chapter 5 - Training Plans

- 5.1. Community councils and their staff should seek to equip themselves to be as effective and efficient as possible when exercising functions. Councils should regularly review whether there are opportunities to improve their administration and governance so that they are better able to perform their responsibilities and serve their communities. Having identified development gaps, the next step is to develop a plan to address these gaps.
- 5.2. Section 67 of the 2021 Act requires community councils to make and publish a plan about the training provision for its members and staff. The first training plan must be ready and published by 5 November 2022, six months after the duty comes into force. This is considered to be an appropriate period of time for councils to assess needs, agree its training budget and adopt a plan.
- 5.3. The training plan should reflect on, and address, whether the council collectively has the skills and knowledge it needs to deliver its plans most effectively.

Purpose of the training plan

- 5.4. Planning for the provision of training can be carried out in a proportionate way, taking into account factors such as the activities undertaken by that council, the current expertise of councillors and clerks and the nature and significance of any training needs identified. Overall, the intention is that the preparation of a training plan would support councillors to have the relevant training to carry out their role - as well as professional clerks and other employees.

Training needs analysis

- 5.5. In order to determine the training priorities for the community council, it is necessary to assess the essential skills needed by the council and whether the council feels there is sufficient coverage and depth across the council. The full list of essential skills will depend on the activities within the council. For instance, a council intending to exercise the GPoC may find it essential that councillors are familiar with preparing a business case or setting up a business.
- 5.6. There are areas which *all* councils should ensure that they have sufficient skills and understanding. These are:
 - Basic induction for councillors;
 - The [Code of Conduct for members of local authorities in Wales](#); and
 - Financial management and governance.
- 5.7. In addition to these areas, the council will want to consider if there are new challenges and opportunities it may wish to explore, such as those offered by the GPoC. In which case, it may decide there are new skills for councillors and clerks to attain.
- 5.8. A number of training analysis templates are available online to help councils determine their own approach to analysing training needs. The most basic approach would list those essential skills identified above and by the council, and ask individual councillors and staff to self-appraise a level of competence

e.g. between one and four (where four is fully proficient). The council can use that information to determine its training needs and then its collective training priorities.

5.9. The next stage is to determine what steps it will take to address relevant skills gaps and prioritise accordingly.

Agreeing and publishing the training plan

5.10. The training plan should reflect the training needs of the council and its plan for addressing those needs. The plan must be approved by the full council prior to publication. The plan should provide, as a minimum, information about:

- The type of training;
- Numbers participating;
- The timeframe over which the training is expected to be completed; and
- The overall cost of the training.

5.11. The National Training Advisory Group (NTAG) for the community and town council sector publishes a strategy for securing sufficient and relevant training provision for councils. It details the courses available and support materials. The council is likely to find this information helpful in determining opportunities to address training needs. As of publication of this document, the NTAG Wales Training Strategy is due to be updated.

5.12. Councils may want to consider the broader range of opportunities to build expertise including formal and informal training, such as shadowing other councillors or staff, or online learning.

5.13. Training costs must be met by councils themselves, although bursary schemes for councillors and clerks may be available to subsidise these costs. Part of the costs of running an effective council includes ensuring that the members and staff have sufficient capability to carry out their functions effectively. Councils should take account of the training costs when setting their budgets.

5.14. Smaller councils, in particular, may wish to share training plans with neighbouring councils to identify any common training requirements that could be negotiated on a larger group basis and potentially reduce the training costs for all.

5.15. The published training plan should not seek to name individuals without their consent. Where this is impossible, e.g. there is one member of staff, the training plan should focus on what the training priorities are rather than who they are for.

Training for employees of more than one community council

5.16. A single clerk may act in this capacity for more than one community council. Other staff may also work across multiple community councils. It is recommended that community councils take a pragmatic approach to meeting the training needs. For instance, councils could agree collectively what training such staff are to receive and how the costs may be shared between the councils. This could be recorded in the training plans of all councils affected,

although care would need to be taken to prevent the information identifying a particular individual.

Review of training plans

5.17. Under section 67(4) of the 2021 Act there is a duty on councils to review their training plan from time to time.

5.18. As a minimum this would be at least at every ordinary election of community councillors. Under section 67(3) of the 2021 Act, once the first plan is published, subsequent plans must be prepared within three months of an ordinary election of community councillors

5.19. In practice, the plan is likely to require revising more frequently, for example, following a council by-election or a new co-opted councillor joining; staff changes; or taking on new responsibilities such as new services or assets.

5.20. Where a council revises or replaces its training plan, under section 67(5) of the 2021 Act, the council must publish the revised or new plan.

Publication

5.21. The publication of the council's training plan should be consistent with the wider approach to publication required by the 2021 Act and be published electronically.

6. Chapter 6: Other provisions impacting community and town councils

Notices of meetings of community councils

- 6.1. Part 1 of Schedule 4 to the 2021 Act amends paragraph 26 of Schedule 12 to the 1972 Act in respect of the notice of the time and place of a full council meeting. The notice (including how the meeting may be accessed virtually, if applicable) must be published electronically and in a conspicuous place in the community at least three clear days before the meeting, or if the meeting is convened at shorter notice, at the time it is convened. If a member wants to receive the summons in writing rather than electronically, they must give notice in writing to the clerk and specify the postal address to which the summons should be sent.
- 6.2. If the meeting is held remotely the notice must provide details about how to access the meeting, and the time and place of the meeting. The place may be omitted if the meeting is held by remote means only.
- 6.3. Paragraph 5 of Schedule 4 to the 2021 Act amends the Public Bodies (Admissions to Meetings) Act 1960 in relation to notices of meetings of community councils. a copy of the notice of the meeting must be published electronically at least three clear days before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened;
- 6.4. Paragraph 21 of Schedule 4 to the 2021 act notes that in exceptional circumstances, a meeting of a committee or sub-committee of the council may be called at shorter notice. In which case, notices should be published with at least 24 hours' notice.
- 6.5. The provision to enable urgent meetings should be used only in an appropriate manner for matters which require urgent response. This mirrors similar provision in place for principal councils, e.g. to form an emergency response to local flooding or a public health crisis. Community councils are advised to prepare standing orders for the process and reasons for calling such urgent meetings, including the securing of support from across council members.
- 6.6. These notice requirements also apply where a formal meeting is taking place which is not open to the public.

Proceedings of community council meetings

- 6.7. The 2021 inserts a requirement under section 26ZA of Schedule 12 to the 1972 Act that no later than seven working days of a council meeting, the council must publish electronically a note setting out:
 - The names of the members who attended the meeting, and any apologies for absence;
 - Any declarations of interest; and
 - Any decisions taken at the meeting, including the outcomes of any votes.

- 6.8. This requirement does not replace the requirements set out in section 55 of the Local Government (Democracy) (Wales) Act 2013 to publish electronically minutes of meetings and such other information as is set out in that section.
- 6.9. The requirements regarding the note to be published after a council meeting do not apply for private business or where disclosure would be detrimental to acting on those decisions.

Community petitions

- 6.10. The 1972 Act (as amended by the Local Government (Wales) Measure 2011 (“the 2011 Measure”)) provided for a community poll to be held if one was demanded at a properly convened community meeting. The outcomes of community polls were non-binding.
- 6.11. Evidence shows that turnout at community polls, as a percentage of the total people entitled to vote is low. In addition, community polls are costly. In order to retain the opportunity for communities to make their views known to their council, the 2021 Act has repealed community polls and replaced them with a system of petitions. Schedule 13 of the 2021 Act provides for the repeal of community polls, and section 42 of the Act introduces a new petitions scheme which is to be made and published by the relevant principal authority.
- 6.12. The exception to this relates to community governance polls i.e. those which enable a community to hold a poll in respect of a proposal to establish or dissolve a community council or to group with other communities under a common community council. The legislation relating to community governance polls, which is set out in the 1972 Act (as amended by the 2011 Measure), is unchanged in the 2021 Act.

Elections

- 6.13. Section 15 of the 2021 Act changes the electoral cycle of principal councils and community councils from four to five-year terms. The voting system for community council elections remains first past the post.
- 6.14. Section 19 of the 2021 Act amends the eligibility criteria for candidates at local government elections to allow a citizen of any country to stand for election. This is subject to the other qualifying criteria, such as age and residence. All other disqualification criteria will continue to apply.
- 6.15. Section 20 of the 2021 Act provides that community council employees, other than those holding politically restricted posts, will be entitled to stand for election to their own council. They will only be required to resign their paid employment with the council if they are elected. This widens the pool of potential candidates while ensuring there is no conflict of interest once the candidate is elected.
- 6.16. Section 21 of the 2021 Act disqualifies a member of a local authority from being appointed or elected to that authority to any paid office other than the office of chair or vice-chair. In the case of community councils there are no such paid office posts. If they wish to take paid office within that community council, they

must resign. However, this section repealed section 116 of the 1972 Act as it applies in Wales (replacing it with section 116A). There is now no requirement to wait 12 months before they can take up paid office.

Meetings in licensed premises

6.17. Schedule 4, paragraph 20 of the 2021 Act has amended Schedule 12, paragraph 26 to the 1972 Act. The effect is to remove the restriction on holding community council meetings and sub-committee meetings within licensed premises.