

Bill Summary

Local Government (Democracy) (Wales) Bill

January 2013

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Enquiry no: 12/2964

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January 2013

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Local Government (Democracy) (Wales) Bill¹

1. Introduction

Introduction date: 26 November 2012

Member in charge: Carl Sargeant AM, Minister for Local Government and Communities.

Assembly Committee undertaking Stage 1 scrutiny of the Bill: Communities, Equality and Local Government Committee.

The Committee has issued a **call for evidence** which will close on **15 February 2012** and will **consider the Bill** on the following dates: 9 January 2013, 17 January 2013, 23 January 2013, 31 January 2013, 6 February 2013 and 21 February 2013

Stage 1 reporting deadline: 8 March 2013.

The provisions of the *Local Government (Democracy) (Wales) Bill* (“the Bill”) are intended to reform the organisation and functions of the Local Government Boundary Commission for Wales.

The Bill also contains provisions which would amend the *Local Government (Wales) Measure 2011* in relation to the responsibilities of the Independent Remuneration Panel for Wales and the structure of local authority audit committees. It also includes provisions concerning the public’s access to information concerning town and community councils.

The Bill also amends Part III of the *Local Government Act 2000* to facilitate the creation by local authorities of joint standards committees and contains a provision concerning the role of the Chair or Mayor of principal councils.

¹ [Local Government \(Democracy\) \(Wales\) Bill](#) [accessed 5 December 2012]

2. Background

2.1. *Current legal basis of the Local Government Boundary Commission for Wales*

The Local Government Boundary Commission for Wales (“the Commission”) was established in June 1974 under the terms of Section 53 of the *Local Government Act 1972* (“the 1972 Act”). The statutory functions of the Commission are specified in Sections 54 to 78 of the 1972 Act as amended by the *Local Government (Wales) Act 1994* (“the 1994 Act”). Schedule 8 to the 1972 Act makes provision for the Commission’s constitution and proceedings. Wales is the only part of the United Kingdom which still relies on the Local Government Act 1972, as amended by the Local Government (Wales) Act 1994, as the legal basis for the work of its Local Government Boundary Commission.

From 1 April 1995 the Commission became an advisory Non-Departmental Public Body funded by Grant-in-aid from the former Welsh Office and after 1 July 1999, an Assembly Sponsored Public Body (ASPB). When the *Government of Wales Act 2006* came into effect on 25 May 2007 the Commission became an Assembly Government Sponsored Body (AGSB).

The purpose of the Commission is:

To review local government areas and electoral arrangements in Wales, with a view to considering whether or not to make proposals to the National Assembly for Wales for effecting changes which appear to the Commission to be desirable in the interests of effective and convenient local government.²

Since Part 4 of the *Government of Wales 2006* (“2006 Act”) has come into force following the referendum in March 2011, the National Assembly for Wales is able to legislate in respect to the Commission because it is covered under subject 12: Local Government in Schedule 7 of the 2006 Act.

2.2. *Policy context*

2.2.1. *The Mathias review*

In December 2010 the then Minister for Local Government and Social Justice, Carl Sargeant AM, announced that he would not implement any of the **electoral reviews** recommended by the Commission ahead of the 2012 local elections but that he would establish an independent review of their programme of work. The reason for this is that the electoral reviews were running late and there was concern about the consistency and quality of those which had been completed. The Minister’s statement said:

² The Local Government Boundary Commission for Wales Annual Report 2009/2010, p1.

In light of these issues, in particular the delays in producing reports for a number of counties I have concluded that I will not make any orders in respect of the boundary reviews for any local authorities in Wales take effect for the 2012 elections. I do not wish to create a situation where some local authorities will conduct elections in 2012 under new arrangements and others under existing arrangements because of the imbalance inherent in such a situation. I am making this announcement now to provide certainty to local government and others concerned with the electoral process.

Clearly the fact that the Boundary Commission has failed to deliver this programme of reviews consistently and within the agreed timescales gives me cause for concern. I have therefore instructed my officials to establish an independent review to identify why these failures have occurred and identify actions that can be taken to ensure that the programme can be delivered efficiently and to a high standard in time for the 2016 elections.³

The Minister appointed Glyn Mathias to lead the Review. Max Caller, Chair of the Local Government Boundary Commission for England and Peter Mackay, Chair of the Local Government Boundary Commission for Scotland were invited to join the Panel as advisers, to contribute their expertise to the work of the review.

The terms of the Review⁴ were:

- to identify the reasons for the delay in the programme of reviews and assess what action the Commission took to reschedule the programme on repeated occasions;
- to examine the methodology adopted by the Commission in the conduct of its reviews and make recommendations as to how it could be strengthened and improved in future;
- to review the Commission's corporate policies and operational objectives as relevant for electoral reviews to ensure they are consistent with the legislative requirements, Ministerial Directions and guidance provided to the Commission;
- to assess the Commission's quality assurance methods in the light of administrative errors made in connection with the conduct and reporting on the electoral reviews and make recommendations as to how they can be improved;
- to assess the capacity and capability of the Commission and its staff to complete the cycle of reviews in a satisfactory manner within a reasonable timescale in view of the future expansion in the work programme of the secretariat on other review programmes.⁵

³ [Welsh Government, Written Statement: *The Local Government Boundary Commission for Wales – Electoral Review*, 8 December 2010](#) [accessed 4 January 2013]

⁴ [Independent Review of the Local Government Boundary Commission for Wales, 2011](#) [accessed 4 January 2013]

⁵ Ibid.

On 25 January 2012, the Minister for Local Government and Communities published the Welsh Government's full response to the Mathias Review's recommendations.⁶ The Minister stated that many of the issues identified in the review would be addressed by the Welsh Government in the *Local Government (Democracy) (Wales) Bill* that it intended to introduce as part of its legislative programme.

2.2.2. The White Paper and consultation

On 17 May 2012, the Welsh Government published its *Promoting Local Democracy* White Paper and launched a consultation that was intended to inform the content of this Bill. The White Paper included proposals around:

- Reforming the operation and functions of the Boundary Commission in line with the recommendations of the Mathias Review;
- Improving access to information about town and community councils;
- Reviewing the process for making allegations that local government members may have breached their code of conduct;
- Improving the effectiveness of electoral management in Wales, in terms of organisation, funding and voter registration;
- Ensuring that the scrutiny function of local government, strengthened by the *Local Government (Wales) Measure 2011*, is effective to achieve public accountability in an era of collaboration;
- Ensuring councillors received improved levels of training and development.

The Explanatory Memorandum to the Bill states that 91 responses were received, and that the response from the majority was positive. The Explanatory Memorandum also claims that the '**majority of the proposals**' in the White Paper '**have been included as provisions in the Bill**'. It states that the '**only exceptions**' are those involving appointing additional members to the Boundary Commission and timescales for community councils to comply with new duties. However, it would appear that there **are other proposals in the White Paper which have not been included on the face of the Bill**. These include the proposal to remove from the model code of conduct for councillors the express requirement to report potential breaches to the Ombudsman; proposals regarding running elections and returning officers; and proposals to reintroduce the Scrutiny Development Fund. It may be that the Welsh Government intends to give effect these proposals by other means but there is no mention of this in the Explanatory Memorandum.

⁶ Ibid.

3. The Bill: Local Government (Democracy) (Wales) Bill

The Bill makes substantial changes to the Local Government Boundary Commission for Wales's operation and functions in order to implement the recommendations of the Mathias Review.

3.1. Part 1

3.1.1. Section 1 – Overview

This section provides an overview of the key provisions of the Bill and what the Bill seeks to achieve. The Bill has 70 sections, 6 Parts and 3 Schedules.

3.2. Part 2 – Local Democracy and Boundary Commission for Wales

Section 2 – Local Democracy and Boundary Commission for Wales

This section changes the name of the Local Government Boundary Commission for Wales to the Local Democracy and Boundary Commission for Wales (“the Commission”).

Section 3 – Status

This section makes clear that the Commission is not a Crown body.

Sections 4 and 5 – Membership; Tenure

These sections provide that the members of the Commission shall be the chair, deputy chair and up to three others, to be appointed on such terms and conditions as determined by the Welsh Ministers. The tenure of a member of the Commissions will be set by the terms and conditions of their appointment.

Sections 6 and 7 – Proceedings; Seal and validity of documents

These sections set a quorum of three for meetings of the Commission and that the Commission may regulate its own procedure.

The Commission may also have a seal for use on documents and the use of the seal is authenticated by the signature of a member of the Commission or of another person authorised by the Commission for this purpose.

Section 8 – Chief executive

This section requires the Welsh Ministers to appoint, and decide on the terms of conditions of a chief executive to the Commission (as opposed to a Secretary as required for the previous Commission), following consultation with the Commission. The functions of the Chief Executive will be the same as that of the previous Secretary. Prior to the appointment of a chief executive the Welsh Ministers are required to consult the Commission.

Section 9 – Other staff

This section enables the Commission to employ staff and to decide on their remuneration and terms and conditions. Prior to appointing staff and determining the remuneration, pensions, allowances and expenses payable the Commission must consult with the Welsh Ministers.

Section 10 – Experts

This enables the Commission to appoint expert advisers to assist in the exercise of their functions. Prior to appointing an expert and determining the remuneration, allowances or expenses payable the Commission must consult with the Welsh Ministers.

Section 11 – Assistant commissioners

This section allows the Commission to appoint Assistant Commissioners to assist in the conduct of reviews of local government areas or electoral arrangements or to chair local inquiries. Before appointing an assistant commissioner the Commission is required to consult with the Welsh Ministers.

Similarly, the Commission must consult the Welsh Ministers prior to determining the remuneration or allowances payable to an assistant commissioner.

Sections 12 to 14 – Powers; Delegation Directions

The Commission has the power to do anything which will facilitate or is conducive or incidental to the exercise of the Commission's functions. **Section 12** makes clear however that the Commission is not allowed to borrow money, acquire land or property (except with Ministerial consent) or form or promote companies.

Section 13 provides that the Commission may delegate its functions relating to reviews of local government areas or arrangements or conducting local inquiries to individual members or assistant commissioners, without negating the Commission's overall responsibility for the performance of these delegated functions.

Section 14 provides the Welsh Ministers with a general power of direction of the Commission. The Commission must comply with any direction given by the Welsh Ministers and the Welsh Ministers may vary or revoke a direction by issuing a subsequent direction.

Section 15 – Funding

This section specifies that funding for the Commission will be provided through Welsh Minister grants. The amount of grant will be determined by the Welsh Ministers subject to any terms and conditions as specified by them.

Section 16 – Accounting officer

This section requires the Welsh Ministers to appoint an accounting officer from the Commission’s staff with responsibilities specified by a direction of the Welsh Ministers, in relation to the Commission’s financial arrangements.

Sections 17 to 20 – Audit; Audit Committee: membership; Accounts and external audit; Annual reports

The Commission must establish an audit committee to keep under review their financial affairs and their corporate governance. It must report to the Commission and the Welsh Ministers. The Audit Committee must include at least two Commissioners and at least one lay member.

Section 19 requires the Commission to prepare an annual statement of accounts for each financial year, the content of which must comply with any directions from Welsh Ministers. The statement must be sent to the Welsh Ministers and the Auditor General for Wales and must be laid, once certified by the Auditor General, before the National Assembly for Wales (‘the Assembly’).

Before the end of November in each year, the Commission must also publish an annual report on their activities during the previous financial year, which the Welsh Ministers must also lay before the Assembly.

3.3. Part 3 – Arrangements for local government

This part describes the types of review of local government areas and arrangements that may be conducted and details the procedure which is to be followed in conducting a review. It also deals with the manner in which any recommendations made as a result of the review are to be implemented.

Section 21 – Duty of the Commission to monitor arrangements for local government

This section outlines the general function of the Commission to keep local government arrangements under review. In doing so, the Commission must seek to ensure that local government is effective and convenient.

Section 22 – Duty of principal councils in relation to area

This section outlines that a county council or a county borough council (defined in the Bill as “principal councils”) is required to keep the communities in its area and the electoral arrangements of such communities under review and must produce a report on this matter at least once in every period of 15 years.

In carrying out that duty, and when any conducting reviews under this Part, each principal council must have seek to ensure that local government is effective and convenient.

Section 23 – Review of principal area boundaries

This section enables the Commission, either at its own behest or if so requested by a principal council, to conduct a review of a county or county borough (defined in the Bill as “principal areas”). Following a review, the Commission must make proposals to the Welsh Ministers. In their proposals, the Commission may propose such principal area change as appropriate and consequential changes to community boundaries or electoral arrangements within communities. The possible changes are defined at sub-section (4).

In line with the duty imposed under section 21, any recommendations that the Commission makes in connection with such a review should seek to secure effective and convenient local government.

Section 24 – Review of principal areas following new town order

This section outlines the process to be followed if the Welsh Ministers make a New Towns Order in accordance with the *New Towns Act 1981*. In such a circumstance, the Commission having received notice from the Welsh Ministers of the New Towns Order must conduct a review in line with the provisions of section 23 of the Bill of any principal areas specified within the notice of the Welsh Ministers.

Section 25 – Review of community boundaries by principal council

Section 25 provides that a principal council may decide to conduct a community review either at its own behest or at the request of a community council or community meeting. The principal council must not however conduct a review at the request of a community council or a community meeting if the principal council considers that by undertaking such a review it would impede the proper exercise of its functions.

Following such a review, the principal council should send a report to the Commission with recommendations for any changes to community boundaries and any consequent effect on any community councils. In line with the duty imposed by section 22, any recommendations made by the Council must seek to ensure effective and convenient local government.

A principal council and the Commission may agree to the council delegating its functions of conducting community reviews to the Commission. Any such arrangement is subject to any terms and conditions agreed between the two parties.

Section 26 – Review of community boundaries by the Commission

This section enables the Commission to carry out a community review in certain circumstances, namely: if a principal council asks them to conduct it on their behalf; if they are not content with a report provided to them by a principal council for the reasons detailed at section 26(2), or if a principal council has failed to conduct such a review in accordance with a direction issued by the Welsh Ministers.

The Commission must send to the Welsh Ministers any recommendations it makes in relation to such a review, which can include changes to community boundaries and consequential changes to community councils. The section also describes circumstances in which the Commission can recover costs from the principal council.

Section 27 – Reviews of preserved counties

This section provides that the Commission may conduct a review of a preserved county or counties. In doing so, the Commission may recommend changes to the area of the preserved county as it deems appropriate. The Commission when considering whether changes to the area of the preserved county may be appropriate are required to have regard to the purposes for which the preserved counties are retained.

Preserved counties are not local authorities but are areas, largely based on the pre-1996 Welsh county authority areas, which are used for certain administrative purposes e.g. Lord Lieutenancies.

Section 28 – Reviews of seaward boundaries

36 Section 28 enables the Commission to review a local government boundary which lies beneath the sea and does not adjoin another local government boundary, and report to Welsh Ministers if they feel the boundary should be changed.

Section 29 – Review of electoral arrangements for principal area

This section places the Commission under a duty to conduct an electoral review of each principal area at least every ten years, though it could decide, either at the request of a council or at its own behest, to conduct one at any time.

However, no review should take place and no report should be published within 9 months of an ordinary council election. Following a review, the Commission must send a report to the Welsh Ministers.

The section also requires Commission to send their proposed timetable for conducting electoral reviews to the Welsh Ministers.

Section 30 – Considerations for a review of principal area electoral arrangements

The Commission when considering whether to make recommendations for changes to the electoral arrangements for a principal area must make efforts to ensure that the number of electors represented by each councillor within a principal council is as close to the same as possible. The need should also be recognised to make proposals which are in keeping with the need to secure effective and convenient local government that electoral divisions have recognisable boundaries and that community ties are respected.

Sections 31 and 32 – Review of electoral arrangements for community by principal council; Review of electoral arrangements for community by the Commission

These sections provide that a principal council may conduct reviews of community electoral arrangements either on its own initiative or when requested by a community council or by at least 30 electors in a community. This is to be read in line with the duty in section 22 which requires a principal council to keep its area under review.

The Commission (rather than the principal council) may conduct a review of the electoral arrangements for a community in certain circumstances, namely: if it is requested to conduct a review by the principal council, a community council or 30 electors within a community; if a principal council has failed to carry out a direction from the Welsh Ministers to conduct such a review. Where the Commission has conducted a review because a principal council has failed to do so, it may recover the cost from the principal council.

Section 33 - Consideration for a review of community electoral arrangements

This section provides that where a principal council or the Commission are reconsidering making changes to the electoral arrangements for a community regard should be given as to whether a community should be divided into wards and also the appropriate distribution of electors within those wards.

Chapter 4 details the procedure of consultation and publication of reports to be adopted for reviews.

Section 34 – Pre-review procedure

Prior to starting a review, the Commission or the principal council conducting the review must notify the mandatory consultees (listed in the section) that a review is about to take place.

The section also requires the Commission to the mandatory consultees of the procedure and methodology it is going to follow in conducting an electoral review of a principal area. In particular this will deal with its approach to determining the appropriate number of members for the council for that area.

Section 35 – Consultation and investigations

Section 35 provides that a review must involve the Commission or the principal council conducting the review (referred to in the Bill as “the reviewing body”) must consult with the mandatory consultees and carry out such investigations as it considers appropriate.

Following the consultation process, the reviewing body must prepare and consult for between six and twelve weeks on a draft report, a copy of which must be made available for inspection at the offices of any principal council for the area which is under review.

Sections 36 – Reporting on review

Section 36 provides the procedure for reporting on a review by a reviewing body following the consultation period under section 35. Once the reviewing body has considered the representations received during the consultation period they must then prepare a further report. This section makes detailed provision regarding what the further report should contain dependent on the type of review undertaken.

The reviewing body must then submit the report and its recommendation to the person or body who has the power to implement the recommendations (except when the reviewing body is itself the implementing authority). It must also ensure that the report is published electronically and is available for public inspection for a period of at least six weeks beginning with the date of publication.

The reviewing body must also ensure a copy of the further report is sent to the mandatory consultees, Ordnance Survey and the Welsh Ministers. Any other person who has submitted evidence or made representations in relation to the report under section 35 of the Bill must be informed of how to obtain a copy.

Section 37 – Implementation by the Welsh Ministers

This section provides that, on receiving a report on boundary changes from the reviewing body, Welsh Ministers may make an order either in keeping with the recommendations or modifying them. Alternatively, the Welsh Ministers could decide to take no action in light of the report.

There must be at least 6 weeks between the time when a report is received by the Welsh Ministers and the time when any order is made.

Section 38 – Implementation of community boundary change

This section provides that when the Commission receives a report of a community boundary review from a principal council, it must make an order implementing the recommendations as they stand or with modifications agreed with the principal council. If, however, the Commission and the principal council cannot agree on any proposed modifications, or if the Commission considers that it should not implement any of the council's recommendations, it may conduct its own review.

Following that review, the Commission must publish its recommendations and submit them to the Welsh Ministers.

Section 39 – Implementation of community electoral arrangements change

This section provides that a principal council may make an order implementing changes to electoral arrangements for a community. The changes may be either those on which the principal council had reported under section 26 or those recommended by the Commission under section 32. In certain circumstances the Commission may request the Welsh Ministers to implement its recommendations.

Section 40 – Implementation orders: consequential provision

Section 40 provides that an order made by the Welsh Ministers, the Commission or a principal council, following a review, may make such other consequential provisions on the changes being introduced as they feel necessary. This could include changing the name of an area, the assignment of existing councillors to new or altered areas and the number and distribution of councillors in a new or altered area.

Section 41 – General consequential and transitional provision

The Welsh Ministers may, under section 41, also make regulations (of general application) providing for incidental, consequential etc matters so as to give full effect to review orders: for example, transfer of staff, property and liabilities.

Section 42 – Transfers of staff

Section 42 provides that any transfers of staff must not result in deterioration in their terms and conditions.

Section 43 – Variation and revocation of orders

Section 43 provides a procedure for the Welsh Ministers, the Commission or a principal council to vary or revoke a review order and to correct mistakes.

Section 44 – Transitional agreements as to property and finance

Section 44 enables public bodies affected by a review to enter into an agreement with other public bodies about and transfers of property and any financial arrangements consequential on the area changes. The parties to such an agreement are required to deal with any failure to agree by arbitration.

Section 45 – Police area change

If, as part of a boundary review in accordance with section 23 of the Bill, a change of police area boundaries appears desirable, the Commission may, recommend that the Secretary of State makes such change by order. This circumstance would arise if a change to a county boundary resulted in part of a county being partly inside or outside a police area.

The Secretary of State's order can change the police area so that a new area falls within the area of a particular Police and Crime Commissioner. It would also enable the holding of a fresh election for a Commissioner if the Secretary of State so decided.

Section 46 – Extent of seaward boundaries

This section provides that communities which border the sea extend to the low water mark of the shore and that any accretion from the sea forms part of the community and county bordering on the shore.

Section 47 – Boundary change following the alteration of water-course

This section provides that Welsh Ministers may also make an order to change a boundary as a result of a change in water course, following consultation with the Commission.

Section 48 – Directions and guidance relating to Part 3

This section enables the Welsh Ministers to give directions to the Commission and principal councils in relation to reviews of local government area and electoral arrangements.

The section also requires the Commission and principal councils, when conducting reviews or implementing recommendations, to have regard to any relevant guidance that the Welsh Ministers have issued.

Section 49 – Local inquiries

This section enables either the Commission or a principal council to organise a local inquiry associated with any review they are conducting. It also enables the Welsh Ministers or a principal council to arrange for a local inquiry when considering making an order revoking a previous order. The person appointed to conduct the inquiry may require persons to attend or provide evidence under oath.

Part 4 deals with Reviews of public body membership by the Commission.

Section 50 – Reviews of qualifying public bodies

The Welsh Ministers are enabled, following consultation, to direct the Commission to review the membership of particular public bodies. This could cover the number of members of the body and the attributes and qualifications which they should have. The power would not cover local authorities and is otherwise limited to bodies (a) whose membership must include a member or appointee of a local authority and (b) which exercise functions conferred by an Assembly Act.

Following a review, the Commission must report to Welsh Ministers with any proposals for change.

Part 5 deals with other changes to local government.

Section 51 – Presiding member of a principal council

This section amends the *Local Government Act 1972* so as to allow principal councils to appoint a “presiding member”. A “presiding member” would be able to carry out any of the functions of a council chairman so decided by the council. In particular this provision will enable councils who wish to separate the ceremonial and civic functions associated with the council chairman or mayor from those of presiding over meetings of the council.

No member of the council’s executive may be the presiding member. The term of appointment is a matter for the principal council subject to the limitation that it cannot extend past the next council election.

A council may also appoint a deputy presiding member who, again, must not be a member of the executive.

Section 52 – Restriction on promotion of Bills

This section prevents a local authority from promoting a local Bill which concerns a local government area or the political structure of a local authority.

Sections 53 to 55 – Community council websites; Requirement to give public notice electronically; Meetings and proceedings of communities.

Section 53 requires a community council to publish certain information electronically including details of the council's membership and business and make provision for members of the public to contact the council or its clerk electronically. The requirement to make information available is subject to normal rules on confidentiality.

A community council must have regard to any guidance issued by the Welsh Ministers in relation to this matter.

Section 54 requires community councils to publish public notices electronically also.

Section 55 requires a community council to publish agendas and public reports for forthcoming meetings electronically.

Section 56 – Democratic services committees

This section amends the *Local Government (Wales) Measure 2011* so as to broaden the scope of a democratic services committee so that, if requested by the authority, they can review anything connected with the support and advice made available to elected members and their terms and conditions.

Section 57 – Audit committees

Section 57 amends the *Local Government (Wales) Measure 2011* so as to provide that an audit committee of a local authority is one to which the rules of political balance (which are set out in section 15 of the *Local Government and Housing Act 1989*) apply.

Section 58 - Functions relating to payments to members

Section 58 enables the Panel, when considering entitlement to a particular payment, to set a limit on the number of councillors who may receive it. This enhances the Panel's existing power to set a limit on the proportion of councillors who may receive a particular payment.

Section 59 – Relevant authorities

Section 59 provides that the Welsh Ministers may add to the public bodies whose remuneration should be considered by the Panel. Any such additional body must be one which Welsh Ministers have responsibility for and which includes members of local authorities in its membership. This power is to be carried out by order of Welsh Ministers.

Section 60 – Subsequent annual reports

Section 60 changes the date by which the Panel must produce their annual report from 31st December to the 28th February. This has the effect of reducing the time between publication of a report and its implementation the following April. The provisions will also enable the Panel to decide when its reports shall come into force and to backdate its decisions for up to three months.

Section 61- Consultation on draft reports

Section 61 provides that consultation times on draft supplementary reports, currently set at eight weeks, would be varied to between four and eight weeks.

Section 62 – Publicity requirements in reports

Section 62 provides that the Panel may require local authorities to publish details of any income received by their members from specified public bodies.

Section 63 – Joint standards committees

Section 63 amends section 53 of the *Local Government Act 2000* (“the 2000 Act”) so that one or more relevant authorities (i.e. a county or county borough council, national park authority or a fire and rescue authority in Wales) may establish a joint standards committee. An authority considering establishing a joint committee must have regard to any guidance issued by the Welsh Ministers.

87 Section 63 also amends section 54 of the 2000 Act to provide that a standards committee must, in exercising any of its functions, have regard to any relevant guidance issued by the Welsh Ministers.

Part 6 deals with general provisions about the Bill. In particular they:

- Enable the Welsh Ministers to make changes to other legislation if necessary to give effect to the provisions of this Bill;
- Explain the procedure for making items of secondary legislation under this Bill;
- Provide for the definition of terminology used throughout the Bill and introduce the index of defined expressions in Schedule 3;
- Introduce Schedules 1 and 2 which include amendments to and repeals of other legislation required to make certain provisions take effect;
- Deal with any review by the Commission or principal council which is ongoing at the time the Bill comes into force to be completed under the previous legislation and provides a saving for the regulations which are currently in force under the 1972 Act in relation to reviews to remain in force until such time as new regulations are made under the Bill;
- Contains provision regarding commencement of sections of the Bill.
- Provides the short title of the Bill for the purposes of citation.

Schedule 1 includes consequential amendments arising from the main provisions of the Bill and other relevant minor amendments. In particular, Schedule 1 contains an amendment to the *Public Services Ombudsman (Wales) Act 2005* which adds the Commission to the listed authorities for whom the ombudsman has responsibility to investigate complaints.

4. Costs

In his paper to the Communities, Equality and Local Government Committee on the draft budget this year, the Minister for Local Government and Communities told Members that the **estimated costs** of this Bill ‘will be minimal and will be met from within current budgets’.⁷

With regard to changes to the **Local Government Boundary Commission**, the Explanatory Memorandum states that there are ‘no significant cost increases associated with the provision of the Bill’ and that the Commission is expected to ‘manage with its existing budget’ (£540,000 in 2012-13, £520,000 in 2013-14 and 2014-15). Associated **one-off costs of £5,000** will be addressed through ‘annual budget discussions’ between the Welsh Government and the Commission.

There are some **potential costs**: any use of the Commission’s order making powers would cost around £2,000 per order; should the Commission charge a local authority for carrying out a community area review the cost would be between £8,000 and £15,000; and there is a provision for draft reports to be circulated, however as this can be achieved electronically this should not have financial implications. The Explanatory Memorandum states that there will be regular liaison meetings between the Welsh Government and the Commission to monitor the implementation of the reforms, but it does not state whether this monitoring will result in additional costs.

With regard to the **Independent Remuneration Panel**, the Explanatory Memorandum states that there will be ‘**no additional costs**’ associated with the provisions in the Bill (the Panel’s current annual budget is £50,000).

With regard to the new requirements for **community and town councils**, the Explanatory Memorandum acknowledges that it could be argued that there are ‘**significant costs with this provision ... however, that is not necessarily the case**’. It says that many such councils already have electronic capacity. Of the 736 councils, a recent survey suggested around half were ‘not on the web’. It states that there are other options available to councils, such as collaborating, using the websites of principal councils or working with organisations such as One Voice Wales. **Start-up costs would be up to a potential £700,000** if all of the 350 councils who do not have a website were to set up their own, with an **additional potential of up to £350,000 on-going annual upkeep costs**. While it is assumed collaboration will reduce this figure considerably, **no estimate of the overall costs of these requirements has been made**.

⁷ [Minister for Local Government and Communities, Paper to the Communities, Equality and Local Government Committee on Draft Budget Allocations for 2013-14, 10 October 2012 \[accessed 4 January 2013\]](#)

The Explanatory Memorandum states that it is the intention of the Welsh Government to work with community councils and their organisations, and to produce guidance so as both to identify cost effective methods of implementation and to see how collaborating together this policy may be pursued in the most effective manner. The Explanatory Memorandum states that there would be reviews of the implementation of these provisions, supported by searches of the internet by Welsh Government officials. **However, there is no estimation of the cost to the Welsh Government of providing this guidance, support and monitoring.**

With regard to the setting up of **joint standards committees**, the Explanatory Memorandum states that there are 'no anticipated additional costs' associated with the powers and that they could enable authorities to make more effective and efficient use of resources. As a result of the need for fewer members for standards committees overall, approximately £1,000 per person per year would be saved through the reduction in numbers, offset by higher travel and subsistence costs. **The overall net savings or costs have not been estimated.**

With regard to the widening of the role of **democratic services committees** and changes to the membership requirements of **audit committees**, the Explanatory Memorandum states that there will be no financial implications and that the changes merely reflect the experience in local government of implementing the 2011 Measure.

The Explanatory Memorandum similarly states that there will be no anticipated costs associated with the powers relating to **Chairs and Mayors** and **Presiding Members**, as the salaries would be decided by the Independent Remuneration Panel and then managed from the relevant council's budget.

5. Response to the Bill

The Minister introduced the Bill in Plenary on 27 November 2012. He stated:

To a large extent, the Bill takes forward and develops recommendations made by the Mathias report of last year, which investigated the electoral review programme being carried out by the Local Government Boundary Commission for Wales. As well as revealing a number of organisational and strategic weaknesses in the work of the commission, Mathias also identified areas in which the primary legislative framework governing the commission's methods, enshrined in the Local Government Act 1972, were overly restrictive and were at least partially to blame for the problems that surrounded these reviews.

The Bill will provide a new start for the commission, including a change of its name to the local democracy and boundary commission for Wales, reflecting the fact that its work is about far more than boundaries and is intrinsic to the process of ensuring a representative and democratic base for local government in Wales.⁸

Speaking on behalf of the Conservative group Janet Finch-Saunders AM said:

There is a great deal to be welcomed in the Minister's proposals. The positives include provisions relating to the boundary commission. Reforms to the constitution and organisation of the Local Government Boundary Commission for Wales will, we hope, ensure that the decisions made by the commission will be more democratic, thus enhancing its legitimacy. Provisions relating to town and community councils are to be welcomed. In particular, boosting the ability of individuals and communities to access information should be welcomed.⁹

Lindsay Whittle said that Plaid Cymru were supportive of the aims of the Bill but expressed disappointment "that it is not a legal requirement that the chairs of scrutiny committees should be politically balanced".¹⁰

The Minister replied:

The Member raises a very important issue around the political balance in committees. I would certainly be interested in hearing more from his party in terms of the process when this Bill goes through the committee stages.¹¹

⁸ [RoP, 27 November 2012 \[accessed 17 December 2012\]](#)

⁹ [RoP, 27 November 2012 \[accessed 17 December 2012\]](#)

¹⁰ [RoP, 27 November 2012 \[accessed 17 December 2012\]](#)

¹¹ [RoP, 27 November 2012 \[accessed 17 December 2012\]](#)

Peter Black said that the Liberal Democrat group broadly welcomed the Bill but asked:

Will the Minister also look at the fact that the Bill contains no requirement for town and community councils to promote elections or publish information regarding the results of elections? In particular, although there is a long list of matters that a town and community council must publicise electronically, there is no reference to the declarations of interest of its own members. Will the Minister consider incorporating that in the Bill and maybe making it a provision in relation to principal councils as well? Some councils put that information on the net, but, with others, you have to traipse over to some dark corner of a town hall, miles from where you live, to find out what your local councillor has an interest in, in order to hold them to account.¹²

The Minister replied:

I share the Member's concern about declarations of interest. It is extremely important that members of the public fully understand what their elected members stand for and what they are involved in, by way of a declaration. Of course, when a candidate stands and serves as an independent member, it would be much better if they were to provide the full details of their political affiliation through a declaration of interest, as appropriate.¹³

¹² [RoP, 27 November 2012 \[accessed 17 December 2012\]](#)

¹³ [RoP, 27 November 2012 \[accessed 17 December 2012\]](#)