



Llywodraeth Cymru
Welsh Government

Local Government and Elections (Wales) Bill

Statement of Policy Intent for Subordinate
Legislation to be made under this Bill

November 2019

Local Government and Elections (Wales) Bill

Statement of Policy Intent for Subordinate Legislation

Introduction

This document provides an indication of the current policy intention for the subordinate legislation which the Welsh Ministers would be empowered or required to make under the provisions of the Local Government and Elections (Wales) Bill (“the Bill”).

The Statement has been prepared in order to assist committees during the scrutiny of the Bill. It should be read in conjunction with the Bill and the Explanatory Memorandum and Explanatory Notes which accompany it. Details of the Assembly procedure associated with each of these powers are set out in chapter 5 of the Explanatory Memorandum and are not repeated in this document.

The Bill provides for the establishment of a new and reformed legislative framework for local government. It will deliver a major package of reforms, including electoral reform, a general power of competence for principal councils and eligible community councils; voluntary mergers and restructurings, more consistent and effective collaboration and increasing public participation in local government.

The Bill also contains proposals aimed at reforming and strengthening local government accountability and performance. This will enable them to deliver modern, accessible, high quality public services for, and with, the communities they serve. Provisions in this Bill will move councils further towards openness and increased transparency, more in keeping with modern life. Members of the public will be able to understand more about how councils function, how decisions are made and how they can get more involved in these processes.

The Bill in summary proposes:

- Reforms to improve electoral arrangements for local government, including extending the franchise to 16 and 17 year-olds and qualifying resident foreign citizens; improving voter registration; and enabling a principal council to choose between the ‘first past the post’ or the ‘single transferable vote’ voting systems.
- A general power of competence for principal councils and eligible community councils.
- Reforms to increase public participation in local democracy, and improve transparency.
- Provision relating to the leadership of principal councils, including encouraging greater diversity amongst executive members and establishing a statutory position of chief executive.
- Provision for more consistent and straightforward collaborative working through ‘corporate joint committees’.
- A new system for improving performance and governance and performance based on self-assessment and peer review, including the consolidation of the Welsh Ministers’ support and intervention powers.

- Powers to facilitate voluntary mergers of principal councils or restructure a principal council area.
- Provisions relating to local government finance including non-domestic rates avoidance and the removal of the power to provide for imprisonment for council tax debtors.
- Miscellaneous provisions relating to community polls, Fire and Rescue Authorities, the Local Democracy and Boundary Commission for Wales and Public Service Boards.

In developing subordinate legislation, the Welsh Government will work closely with stakeholders in order to ensure the provisions are relevant, valid and proportionate.

Ref.	Section of the Bill	Description of Power	Reason for and Policy Intention of the Power
Powers relating to local government elections			
1.	Section 11(1)	Power for the Welsh Ministers to direct the Local Democracy and Boundary Commission for Wales to conduct a review of a principal area following a principal council resolving to change its voting system.	<p>The Direction will instruct the Local Democracy and Boundary Commission as to when to submit recommendations.</p> <p>The existing electoral arrangements may not be compatible with the delivery of the voting system which the principal council has resolved to change to, in which case new electoral arrangements will be needed. The Direction will specify a date for the submission of recommendations, allowing sufficient time for the new electoral arrangements to be in place in time for the next ordinary elections.</p>

2.	Section 13(3)	Amends the Representation of the People Act 1983 to enable the Welsh Ministers to prescribe rules for local government elections.	<p>Will allow Welsh Ministers to set the rules for local government elections in Wales, this will include rules around:</p> <ul style="list-style-type: none"> • The model of Single Transferable Vote (STV) to be used if a principle council chooses to adopt this electoral system in multi-member wards, it will include how the count is to be conducted as well the format of the ballot paper etc.; • The requirement that a principle council must publish, on its website, a statement for each candidate standing in a local government election. It will include the specific rules around the content and length of statement; • The requirement for candidates standing as “independent” in local government elections to provide, at the point of nomination, to declare whether or not they have been a member of a political party in the last calendar year; and • The removal of the requirement for candidates in local government elections to provide a home address to be published on the ballot paper. This will be replaced by the requirement to provide an official address. <p>The powers under this section will also be used to support any additional changes needed as a result of the extension of the franchise to 16 and 17 year-olds and foreign citizens legally resident in Wales.</p>
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3.	Section 17(3)	Extension of power to change ordinary day of local elections in Wales.	Gives the Welsh Ministers the ability to change the ordinary day of local government elections in Wales to, for example, avoid a clash with a UK general election.
4.	Section 18(1)	Power to establish and maintain a database of electoral registration information.	This enables the Welsh Ministers to establish a database of electoral registration information on an all-Wales basis. The power can specify the requirements of and functions of a database of electoral registration information. The regulations must also provide for one of the public authorities listed to keep the database. Establishing the database will enable the piloting and development of further reforms to the electoral process.
5.	Section 22(4)	Power to enable Welsh Ministers, by regulations, to specify the form and content on notices in relation to automatic registration of local government electors.	Enables the Welsh Ministers to specify the form and content of notices when an Electoral Registration Officer intends to register an elector automatically.
6.	Section 22(5)(c)	Power to enable Welsh Ministers, by regulations, to specify procedures for removing electors from the register.	The substance of this power is set out on the face on the Bill. An Electoral Registration Officer may remove a person entered on the register by virtue of the automatic registration provisions if it is determined that the person should not be registered. However, the Welsh Ministers may make regulations prescribing the procedure that must be followed before a determination is made.
7.	Section 26	Power to enable the Welsh Ministers to require a principal council or Electoral Registration Officer to undertake a pilot.	This Order will be only be applied in circumstances where the Welsh Ministers feel an electoral pilot would be of specific benefit to electors but no principal council or registration officer is forthcoming with proposals for a pilot. It is likely this will only be applied to a small number of principle councils at any one time.

8.	Section 27	Power to issue guidance in relation to the electoral pilot scheme.	Guidance is intended to be issued if a pilot order is made. The guidance would aim to ensure that the pilots are undertaken correctly and consistently between local authorities.
9.	Schedule 1, paragraph 4(3)	Power for the Welsh Ministers to give general directions to the Local Democracy and Boundary Commission about the conduct of initial reviews.	The power will enable the Welsh Ministers to issue directions of a general nature which might apply to several or all reviews being undertaken by the Commission at a certain time or of a certain type. The directions will facilitate the application of the review process.
10.	Schedule 1, paragraph 4(5)	Power for the Welsh Ministers to direct the Local Democracy and Boundary Commission to stop conducting an initial review.	The power will enable the Welsh Ministers to respond to changed circumstances in respect of a merger or restructuring, for example a decision not to proceed with a prospective voluntary merger, in which case the Commission's initial review would need to be stopped as soon as possible.
11.	Schedule 1, paragraph 4(7)	Power for the Welsh Ministers to issue guidance to the Local Democracy and Boundary Commission about the conduct of initial reviews.	The Welsh Ministers may need to issue guidance to the Commission relating to the conduct of initial reviews. Guidance might potentially cover the appropriateness of multi-member wards, acknowledging rural sparsity and respecting community identity.
12.	Schedule 1, paragraph 5(3)	Power for the Welsh Ministers, for the purposes of an initial review, to direct a principal council for an area under review or a council for a community in an area under review to provide the Commission with any information which the Welsh Ministers consider appropriate.	The power is intended to ensure the Commission are enabled to make recommendations on the basis of relevant information.

13.	Schedule 1, paragraph 9	In the circumstances where the Local Democracy and Boundary Commission has submitted recommendations, a power for the Welsh Ministers to make regulations to give effect to the electoral arrangements necessary for first ordinary elections to take place (i) for the council for a new local government area created by merger or restructuring regulations; or (ii) for an existing council which has resolved to change its voting system.	Electoral arrangements regulations made by the Welsh Ministers are needed to give effect to any new electoral arrangements in a principal council. Without such regulations, elections could not take place in the circumstances prescribed in (i) or (ii).
14.	Schedule 1, paragraph 10	In the circumstances where the Local Democracy and Boundary Commission has not submitted recommendations by the required deadline, a power for the Welsh Ministers to make regulations to give effect to the electoral arrangements necessary for first ordinary elections to take place (i) for the council for a new local government area created by merger or restructuring regulations; or (ii) for an existing council which has resolved to change its voting system.	If the Commission has not submitted its final report with recommendations by the deadline specified in the Direction, the Welsh Ministers will be enabled to make electoral arrangements regulations; in doing so, they may draw on such information as the Commission has prepared or collated in undertaking its review of the area in question up to that point. Without such regulations, elections could not take place in the circumstances prescribed in (i) or (ii).
15.	Schedule 1, paragraph 11(1)	Power for the Welsh Ministers, for the purposes of making electoral arrangements regulations following an initial review, direct a principal council for an area under review or a council for a community in an area under review to provide the Welsh Ministers with any information which the Welsh Ministers consider appropriate.	The power is intended to ensure the Welsh Ministers are enabled to make electoral arrangements regulations on the basis of all relevant information. The power would be used in a circumstance where the Local Democracy and Boundary Commission had not submitted recommendations by the required deadline, and Welsh Ministers needed certain information from the relevant principal council to complete the task urgently.

Powers relating to a general power of competence			
16.	Section 35(1)	Power to amend, modify, repeal, revoke or disapply existing legislation which they consider prevents or obstructs qualifying local authorities from exercising the general power of competence.	Enables the Welsh Ministers to amend, modify, repeal, revoke or disapply existing legislation which they consider prevents or obstructs qualifying local authorities from exercising the general power of competence. It cannot be foreseen how qualifying local authorities may wish to use the general power or what legislative obstructions they may face, therefore, this can only be framed as an enabling power.
17.	Section 35(2)	Power to reduce or remove any overlap between the general power of competence and any existing powers.	Enables the Welsh Ministers to reduce or remove any overlap between the general power of competence and any existing powers. It cannot be foreseen how qualifying local authorities may wish to use the general power or what legislative obstructions they may encounter, therefore, this can only be framed as an enabling power.
18.	Section 35(3)	Power to prevent qualifying local authorities from utilising the general power of competence for specified purposes.	Enables the Welsh Ministers to prevent qualifying local authorities from utilising the general power of competence for specified purposes. It cannot be foreseen how qualifying local authorities may wish to use the general power and there may be circumstances in which a constraint on the general power is required, therefore this can only be framed as an enabling power.

19.	Sections 35(4) and (5)	Power to make the exercise of the general power of competence subject to conditions.	<p>Enables the Welsh Ministers to make the exercise of the general power of competence subject to conditions. It cannot be foreseen how qualifying local authorities may wish to use the general power and there may be circumstances in which conditions on the exercise of the general power may be required, therefore this is framed, in part, as a general enabling power. However, subsection (5) enables the Welsh Ministers to provide that a qualifying authority's reliance on the general power of competence to charge for providing a discretionary service or to do things for a commercial purpose is subject to certain conditions. The general power of competence replaces existing powers of local authorities to charge or to trade through a company in Part 8 of the Local Government Act 2003. The power to trade under Part 8 is exercisable subject to the requirements of the Local Government (Best Value Authorities) (Power to Trade) (Wales) Order 2006. The Order requires an authority to approve a business case and to secure the full cost recovery of accommodation, goods, services, staff or any other thing an authority supplies to a company exercising its functions. These requirements ensure there is a proper assessment of the risks and consequences of trading through a company and the full recovery of costs will avoid an unfair distortion in the market. The Welsh Ministers intend to make the power to trade under the general power of competence subject to similar conditions.</p>
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20.	Section 37(3)	Power for Welsh Ministers to prescribe the qualifications or description of qualification, a community council clerk must hold to meet the second eligibility condition relating to the general power of competence.	The Bill sets out that the clerk must hold a qualification for the council to be eligible but the nature of qualifications changes regularly and primary legislation would need to be changed frequently if the detail was prescribed in the Bill. The regulations would be used to specify the detail of the relevant qualifications.
21.	Sections 42(1) and (3)	Power to enable the Welsh Ministers to amend the conditions relating to eligibility of community councils to exercise the general power of competence if necessary.	The conditions are set out in the Bill. However, it cannot be foreseen how restrictive or otherwise the eligibility criteria will be and it may be appropriate to amend, remove or add eligibility conditions in the future.
22.	Section 43	Power to issue guidance on the exercise of functions in relation to eligible community councils.	<p>The Welsh Ministers may need to issue guidance to eligible community councils to assist them in exercising their functions in relation to the general power of competence.</p> <p>The guidance could cover the appropriateness of qualifications prescribed for the purpose of the eligibility condition; and having made arrangements in reliance on the GPOC they cease to be eligible.</p>
Powers relating to Promoting Access to Local Government			
23.	Section 51	Power to issue guidance in relation to promoting access to local government.	<p>The Welsh Ministers may need to issue guidance to principal councils to assist them in understanding their obligations in relation to promoting access to local government.</p> <p>The guidance could include more detailed information about the ways in which access and engagement could be taken forward, the standards of access expected and how improvement may be monitored / measured.</p>

24.	Section 53(4)	Power to specify proceedings to which the duty to broadcast electronically does not apply.	The substance of this duty, i.e. that a principal council must put in place measures to allow for the electronic broadcast of proceedings that are open to the public, is set out clearly on the face of the Bill. These Regulations would enable Welsh Ministers to disapply the broadcasting duty to additional types of meeting. This may need to take place reasonably often and could be used to address circumstances where there is a strong case for disapplying the broadcasting duty to certain types of meeting.
25.	Section 53(5)	Power to issue guidance to principal councils in relation to the electronic broadcast of proceedings at a meeting.	The Welsh Ministers may need to issue guidance to principal councils relating to their requirement to electronically broadcast proceedings of a meeting. Guidance could, for example, cover the procurement of webcasting services and the storage of webcasts.
26.	Section 53(7)	Power to ensure proceedings are broadcast electronically.	The Bill imposes duties on principal councils, but it might be considered appropriate in future to impose similar duties upon fire and rescue authorities or National Park authorities in Wales. This power would enable that to happen. The power includes the ability to amend or repeal the Public Bodies (Admission to Meetings) Act 1960 or Part 5A of the 1972 Act.
27.	Section 55	Power to issue guidance on participating at meetings of community councils.	The Welsh Ministers may need to issue guidance to community councils in relation to participation at meetings. The guidance may cover what constitutes a reasonable opportunity to make representations, and what constitutes effective conduct of a meeting.

28.	Section 57(2)	Power to issue guidance on annual reports by community councils.	<p>The Welsh Ministers may need to issue guidance to community councils in relation to annual reports.</p> <p>The guidance may cover particular aspects of priorities, activities and achievements during that year; and how community councils have engaged and intend to engage their communities.</p>
29.	Schedule 4, paragraph 6	Power to repeal provisions inserted by this Bill which provide that new requirements to publish notices of meetings on a council's website do not apply to National Park authorities and fire and rescue authorities. The repeal would mean the requirements to publish notices on a website would apply to these bodies.	The power enables the Welsh Ministers to repeal provisions in the Bill for the purpose of making National Park authorities and/or fire and rescue authorities subject to a requirement to publish public notices electronically.
30.	Schedule 4, paragraph 10(3)	Power to amend paragraph 17 of Schedule 7 to the Environment Act 1995 for the purpose of making National Park authorities subject to a requirement to publish public notices electronically.	The power enables the Welsh Ministers to amend provisions in the Environment Act 1995 for the purpose of making National Park authorities subject to a requirement to publish public notices electronically.
31.	Schedule 4, paragraph 10(4)	Power to amend section 232 of the 1972 Act for the purpose of making fire and rescue authorities subject to a requirement to publish public notices electronically.	The power enables the Welsh Ministers to amend provisions in the 1972 Act for the purpose of making fire and rescue authorities subject to a requirement to publish public notices electronically.

Powers relating to Local Authority Executives, Members, Officers and Committees			
32.	Section 60(5)	Power to issue guidance in respect of the performance management of a principal council's chief executive.	<p>The Welsh Ministers need to issue guidance to assist principal councils to manage the performance of its chief executive.</p> <p>The guidance may cover more detailed information about the standards of performance required, the monitoring process and areas where councils consider further clarity is required.</p>
33.	Section 65	Power to enable Welsh Ministers to issue guidance in connection with improving diversity.	<p>The Welsh Ministers need to issue guidance to assist principal councils to improve diversity.</p> <p>The guidance may cover more detailed explanation about the criteria to be used when addressing diversity, how the improvement will be monitored and information about specific schemes for introduction.</p>
34.	Section 67(2)	Power to issue guidance to leaders of political groups on promoting and maintaining high standards of conduct by members of political groups.	<p>The guidance will support leaders of political groups in ensuring compliance with the functions imposed on them in relation to promoting and maintaining high standards of conduct.</p>
35.	Section 67(3)	Power to make regulations about the circumstances in which members of a principal council in Wales are to be treated as constituting a political group and in which a member of a political group is to be treated as a leader of the group.	<p>The substance of the duties placed on leaders of political groups in relation to standards of conduct is set out in full on the face of the Bill. The Bill is clear who is intended to be affected by these provisions but the detailed definition of these categories of people is liable to change over time and more appropriately dealt with in regulations.</p> <p>These Regulations would allow for detailed definitions of the categories of people who would be affected by these provisions to be amended. This is likely to change over time and require ad hoc, minor amendment.</p>

36.	Section 72(7)	Power to issue guidance on community council training plans.	<p>The Welsh Ministers need to issue guidance to assist community councils to understand the requirements in relation to completing training plans.</p> <p>The guidance could for example provide information on how a training needs analysis may be carried out and how the training plan could be compiled and set out.</p>
37.	Schedule 8, paragraph 3	Inserts a new section 69F into the Local Government Act 2000 which empowers the Welsh Ministers to amend Chapter 3 of that Act to make further or different provision about the investigation by the Public Services Ombudsman for Wales of alleged breaches of the local government member code of conduct.	<p>This provision forms part of the repeal and restatement, in modified form, of equivalent existing legislation in sections 69 and 70 of the 2000 Act in order to improve the accessibility and clarity of the law. The power will enable the Welsh Ministers to respond quickly to changing circumstances should the Ombudsman experience practical problems in exercising the powers of investigation set out in the Bill.</p>
Powers relating to Collaborative Working by Principal Councils			
38.	Section 74	Power to issue guidance to principal councils about the exercise of its functions in collaboration with another principal council.	<p>The power to issue guidance is intended to support collaboration between local authorities, arrangements for leaving and possibly entering collaborations and governance of collaborations. The guidance will support local government efforts to develop voluntary arrangements and a voluntary code of practice. The intention would be to issue guidance only if voluntary approaches were not effective.</p>

39.	Section 77	Power to make regulations to establish a body corporate, where a corporate joint committee application has been made, to exercise functions specified in the regulations in respect of two or more principal areas.	Regulations made under this power will create a new corporate body for the delivery of specified functions of principal councils. A corporate joint committee will provide local government with a consistent and coherent mechanism for the collaborative delivery of local government functions. Regulations establishing a corporate joint committee will be co-developed with local government.
40.	Section 79	Power to make regulations to establish a body corporate, where no request or application has been made by local authorities, to exercise functions specified in the regulations in respect of two or more principal council areas.	Regulations made under this power will create a new corporate body for the delivery of specified functions of principal councils. The power to create the corporate joint committee where no request / application has been made will be limited to functions of the areas specified in the Bill. Where possible regulation establishing a corporate joint committee will be co-develop with local government.
41.	Section 82	Power to amend or revoke collaboration regulations (including conferring a function on or removing a function from a corporate joint committee).	Regulations made under this power will confer additional existing principal council functions on a corporate joint committee (once established). Regulations may also amend or remove functions (including to abolish a corporate joint committee).
42.	Section 83	Power for the Welsh Ministers, by regulations, to make supplementary, incidental, consequential, transitional or saving provision in relation to (particular) joint committee regulations.	These will largely be technical / procedural in nature and will only be used where necessary for the purposes of ensuring the effectiveness of regulations for corporate joint committees in this part.
43.	Section 85	Power to direct a principal council or corporate joint committee to provide any information appropriate for the purpose of, or in connection with, regulations under Part 5.	The power is intended to ensure that Welsh Ministers have the information required for the purpose of or in connection to regulations under Part 5.

44.	Section 86	Power to issue guidance to principal councils and corporate joint committees for the purposes of Chapters 3 to 5 of Part 5.	<p>Guidance is intended to facilitate the application of the primary legislation and the implementation of the legislation or regulations.</p> <p>The guidance is likely to be largely concerned with process and could include guidance on how principal councils might apply for the creation of a corporate joint committee and, where not set out in regulations, guidance on the constitutional, workforce or other technical matters related to a corporate joint committee.</p>
Powers relating to Performance and Governance of Principal Councils			
45.	Section 88(3)	Power to issue guidance to principal councils about the performance requirements and the exercise of their functions under Part 6 of the Bill.	The Welsh Ministers may issue guidance to assist principal councils to understand the new performance and governance arrangements in the Bill. This may include guidance about the panel assessments.
46.	Section 93	Power to make provision about the appointment of panels to assess the extent to which the council is meeting the performance requirements.	Regulations under this section could set out procedural detail around representation on the panel and remuneration should these be required to support any guidance issued under section 88(3).
47.	Section 102	Power to direct a principal council to provide another principal council with such support and assistance as the Welsh Ministers consider appropriate.	The power is intended to enable the Welsh Ministers to direct a principal council to provide another principal council with support and assistance. This is largely concerned with responding to and supporting the improvement of performance of individual councils.

48.	Sections 103 to 106	Power to give an intervention direction under sections 104, 105 or 106 in relation to a principal council. Interventions include directions to co-operate with the provision of support and assistance by the Welsh Ministers or another principal council; directions to take, not to take or cease taking a specified step; and directions that a specified function of a principal council be exercised by the Welsh Ministers or a person nominated by them.	<p>The powers are intended to ensure that the Welsh Ministers are able to intervene where they consider that a principal council is not, or may not be, meeting the performance requirements. This power is largely concerned with responding to and supporting the improvement of performance of individual councils.</p> <p>Before exercising this power the Welsh Ministers must:</p> <ul style="list-style-type: none"> (a) provide or attempt to provide support and assistance to the council (b) consult with such persons as the Welsh Ministers consider appropriate (c) notify the council that they intend to give the direction. <p>These requirements do not apply if the Welsh Ministers consider that there is an urgent need to give the direction.</p>
49.	Section 106(3)	Power to apply any relevant statutory provision (with or without modification), or to disapply any statutory provision, for the purposes of its application in respect of functions exercisable by the Welsh Ministers or their nominee by virtue of a direction under this section that specified functions of a principal council be exercised by the Welsh Ministers or a person nominated by them.	<p>The power is technical/procedural in nature in that it will only be used where necessary for the purposes of ensuring the effectiveness of a direction under this section.</p> <p>The circumstances in which an intervention takes place will be different in each case and so it cannot be foreseen what application of statutory provision might be required.</p>
50.	Section 108	Power to add to lists of persons to whom certain reports must be sent, including self-assessment reports, report of panel performance assessment, report of special inspection, etc.	The power simply enables Welsh Ministers to add a person to the list should the person listed change its name or be abolished, or to add a newly-established body or an existing body.

51.	Section 109	<p>Power of Welsh Ministers to:</p> <p>(1) make provision amending, repealing, revoking, modifying or dis-applying the application of enactments that obstruct compliance by principal councils with the requirements of Part 6; and/or</p> <p>(2) confer new powers on principal councils which they consider necessary or expedient to permit or facilitate compliance with the requirements of Part 6 by a principal council.</p>	<p>The powers will enable Welsh Ministers to amend, repeal, disapply or modify provisions of Acts of the Assembly or UK Parliament in order to prevent such Acts from obstructing a principal council complying with its duties within this chapter.</p> <p>The powers will also enable Welsh Ministers to confer any necessary power on a principle council, all principal councils or a particular description of principal councils to facilitate compliance with this chapter by principal councils.</p> <p>The nature of the support provided, and the circumstances in which an intervention takes place will naturally be different in each case in order to respond to the individual and particular issues faced by a principal council, and the power has to be sufficiently broad to accommodate each individual circumstance as it may arise.</p>
52.	Section 110	<p>Power to provide guidance to a person who has functions under Part 6 of the Bill (except principal councils and the Auditor General for Wales), about the exercise of those functions.</p>	<p>The Welsh Ministers may issue guidance to persons to understand and implement their functions under the new performance and governance arrangements in the Bill.</p> <p>The guidance may cover for example where a person / persons is acting on behalf of Welsh Ministers in providing support to a principal council or operating as part of an intervention direction within the performance and governance regime.</p> <p>The guidance will be subject to periodic revision.</p>

53.	Section 119(3)	Power of the Welsh Ministers to remove or add new regulators and/or new functions for the purposes of the co-ordination duties between the AGW and the relevant regulators.	The power enables Welsh Ministers to add or remove relevant regulators as may be required for the purposes of co-ordination between regulators required under section 118.
Powers relating to Mergers and Restructuring of Principal Areas			
54.	Section 122	Power to issue guidance about merger applications.	<p>The Welsh Ministers need to issue guidance to assist principal councils on matters relating to the making of an application for voluntary merger. The guidance will inform and facilitate principal councils in preparing an application for voluntary mergers.</p> <p>The guidance could include advice on identifying a business case for merger, addressing the concerns of local people and stakeholders and the degrees of convergence with other strategic boundaries.</p>
55.	Section 123	Power to make voluntary merger regulations for the constitution of a new principal area by merging, to create a new principal area, the principal areas of two or more principal councils.	<p>Regulations will give effect to voluntary mergers following receipt by the Welsh Ministers of applications which, in the view of the Welsh Ministers, satisfy the principles and guidance contained in the guidance on voluntary mergers.</p> <p>Regulations will, amongst other things, establish the new principal area and council for that area. They will cover a range of practical matters including the establishment of shadow authorities, the timing of elections and consequential etc. provision to give full effect to the mergers.</p> <p>Regulations will be tailored to the specific circumstances of each particular merger, for example in designating the status of the new principal area as either a county or a county borough.</p>

56.	Section 124(11)	Power to enable the Welsh Ministers to issue guidance to shadow councils and executives on the exercise of functions in preparing for the establishment of new principal councils.	<p>It will be necessary for the Welsh Ministers to issue guidance to shadow councils and shadow executives on the exercise of their functions in preparing for the establishment of new principal councils.</p> <p>The Welsh Ministers may issue guidance on the functions of the shadow council and executive, such as, the timing of senior appointments for the new principal council, determining the location of headquarters, Service Plans and Pay Policy Statements.</p>
57.	Section 126(4)	Power to enable the Welsh Ministers to direct a principal council as to the appointment of a returning officer.	The power will be used only if merging councils have themselves failed to appoint a returning officer for the first elections to the new council.
58.	Section 127(2)	Power to enable the Welsh Ministers to direct a principal council to take action to facilitate the effective transfer of staff, property etc. in the circumstances of a merger.	The power will be used only if merging councils are themselves failing to take effective or timely action to facilitate the effective transfer of staff, property etc. to a new council to be established under already approved merger regulations.

59.	Section 130	<p>Power to make restructuring regulations for the abolition of an existing principal local government area and its council. The Regulations may provide for part or parts of the abolished area to be transferred to other principal local government areas and / or for the constitution of a new principal local government area by merging part or all of the abolished area with other principal local government area or areas.</p>	<p>If the conditions set out in section 128 are met, the Welsh Ministers may make regulations to give effect to the abolition of an existing principal local government area and its council, and to the restructuring of that area.</p> <p>The restructuring may take the forms set out in section 131 and restructuring regulations may provide for the transfer of specified parts of the area being abolished to other principal areas and / or the constitution of a new principal area.</p> <p>They regulations will also need to cover the range of attendant practical matters including the establishment of shadow authorities, the timing of elections and consequential etc. provision to give full effect to the restructuring.</p> <p>Regulations will be tailored to the specific circumstances of each particular restructuring, for example, if a new principal area is established the regulations will need to designate the status of the that area as either a county or a county borough.</p>
60.	Schedule 10, paragraphs 3(1)(c) and (2)	<p>Power to direct a transition committee to give advice and recommendations to merging councils and shadow councils on such other matters as the Welsh Ministers may direct (paragraph (1)(c)) and to the Welsh Ministers (paragraph 2).</p>	<p>The Direction under paragraph (1)(c) would be used to require a transition committee to consider a matter relevant to the merger in question which the transition committee may have overlooked or ignored. That under paragraph (2) would be used to provide information to the Welsh Ministers which may be needed to inform a decision relevant to the merger in question.</p>

61.	Schedule 10, paragraph 4(1)	Power to direct restructuring councils to establish a transition committee.	<p>Previous local government reorganisations in Wales have required the establishment of statutory joint transition committees to consider and advise merging principal councils on transitional matters. Previous experience indicates that these committees did valuable work, but they could have been more useful if they had been established on a statutory basis earlier in the process.</p> <p>The Direction will enable the Welsh Ministers to apply the requirements in respect of transition committees tailored to meet the specific circumstances of the areas included in the proposed restructuring.</p> <p>The role of the transition committee is to prepare for the establishment of the new councils by undertaking essential preparatory activities, as well as considering anything else the committees consider expedient to ensure the new principal council will be able to function effectively from the day it assumes the full range of its responsibilities.</p>
62.	Schedule 10, paragraph 7(1)	Power to direct a transition committee to exercise its functions.	The Direction will be used to require a transition committee to exercise its functions where it is considered that the transition committee has been negligent or tardy in exercising a given responsibility.

63.	Schedule 10, paragraph 7(2)	Power to issue guidance to a transition committee on the exercise of its functions.	<p>The Welsh Ministers may issue guidance on the range of preparatory activities that merging and restructuring councils need to address in order to ensure that the new principal council can function fully from the day it assumes the full range of its responsibilities.</p> <p>The guidance would largely be concerned with the types and process of preparatory activities that it is considered the committees should undertake, and might include: Service Delivery Plans, recommendations for Pay Policy Statements, Welsh language considerations, agreeing first budgets, setting council tax rates and issuing council tax bills.</p>
64.	Section 132(8)	Power to enable the Welsh Ministers to issue guidance to shadow councils and executives on the exercise of functions in preparing for the establishment of new principal councils.	<p>The Welsh Ministers may issue guidance on the range of preparatory activities that shadow councils need to address in order to ensure that the new principal council can function fully from the day it assumes the full range of its responsibilities.</p> <p>The guidance could include advice on issues such as, the timing of senior appointments for the new principal council, determining the location of Headquarters, drawing up Service Plans and agreeing Pay Policy Statements.</p>

65.	Schedule 11, paragraph 1	Power to direct that a merging or restructuring council may not carry out a restricted activity without considering the opinion of and obtaining the consent of a specified person or persons.	The Direction may be used to establish a transaction regime with an opinion and consent procedure, as described in Schedule 11, to guard against the potential for negative and damaging behaviour by merging or restructuring principal councils in the run-up to merger or restructuring. If the councils are collaborating and sharing relevant information, the Welsh Ministers may not need to direct, but if councils are not working together the Welsh Ministers will require the ability to act swiftly within the framework provided by this Schedule to prevent damaging behaviour.
66.	Schedule 11, paragraph 1(3)	Power to direct a merging or restructuring council seeking to appoint or designate a person to a restricted post to comply with specified requirements about the appointment or designation.	The Direction may be used to require merging or restructuring councils to comply with specific requirements regarding the appointment/designation to restricted posts, as specified in Schedule 11, and so guards against the potential for negative and damaging behaviour by merging or restructuring councils. If the councils are collaborating with the process, the Welsh Ministers may not need to direct, but if councils are not so working together the Welsh Ministers will require the ability to act swiftly within the framework provided by this Schedule to prevent damaging behaviour.
67.	Schedule 11, Paragraph 6(8)	Power for the Welsh Ministers to amend the threshold amounts of the transaction regime.	The Welsh Ministers believe the values for each type of transaction on the face of the Bill are appropriate. However, the Bill enables the Welsh Ministers to substitute different values should they consider it appropriate to respond to changing circumstances.
68.	Schedule 11, paragraph 9(1)	Power to give guidance to merging or restructuring councils and any persons specified in the direction under paragraph 1 of Schedule 11.	It may be necessary for the Welsh Ministers to issue guidance to merging or restructuring councils, for example about establishing an open and transparent procedure for seeking an opinion or consent.

69.	Section 133(2)(d)	Power to enable the Welsh Ministers to give directions to persons specified in restructuring regulations for purposes connected to a restructuring.	<p>Power will be used to give effect to restructuring regulations. The direction might require the person (who must be specified in the restructuring regulations) to take specified action to facilitate the restructuring which has been approved by way of the regulations. The person so specified is likely to be an officer of one of the restructuring councils (for example the chief archivist) and the action could concern anything to do with the preparations needed for the restructuring.</p> <p>It is likely that the power would need to be exercised only if a restructuring council were not taking action to implement the restructuring.</p>
70.	Section 134(4)	Power to enable the Welsh Ministers to direct a principal council to take action to facilitate the effective transfer of staff, property etc. in the circumstances of a restructuring.	The power will be used only if restructuring councils are themselves failing to take effective action to facilitate the effective transfer of staff, property etc. to another council in the event of restructuring provided for under already approved restructuring regulations.
71.	Section 137(1)	Power to direct the Local Democracy and Boundary Commission for Wales to conduct an initial review after receiving an application for voluntary merger or where the Welsh Ministers have given notice under section 128(6) that they propose to make restructuring regulations in respect of specified principal areas.	<p>The role of the Commission is to keep all local government areas in Wales and the electoral arrangements for the principal areas under review.</p> <p>Under current legislation, the LDBCW can only undertake reviews of principal areas already established by statute. Section 137(1) of the Bill will enable the Welsh Ministers to direct the Commission to undertake an initial review of the electoral arrangements for a proposed new principal area and / or those areas which will be transferred to another principal area by virtue of a proposed restructuring.</p>

72.	Section 137(6)	Power to enable the Welsh Ministers to make regulations to reset the start date for the Local Democracy and Boundary Commission's next 10-year electoral arrangements review period, following the making of merger or restructuring regulations.	The re-setting of the start date is a technical detail which may be needed to ensure the Commission's work programme is able to accommodate periodic reviews for any new councils established by merger or restructuring regulations. Merely re-setting the start date for periodic review will not affect the principle or the application of the provisions in section 29 of the Local Government (Democracy) (Wales) 2013 Act.
73.	Section 138	Power to direct a merging council or a restructuring council that it must not take any further steps to change its form of executive.	The Direction will be local in nature applying to specific principal councils. It is concerned with putting on hold any procedure underway or which may be initiated in a merging or restructuring council. The entirely local process of changing executive arrangements may have been overtaken by the merger or the restructuring being considered elsewhere and the disruption which would arise from a change of executive arrangements would not be helpful in the context of the merger or restructuring. If the Welsh Ministers decide not to proceed with the merger or restructuring in question, the restraint on changing executive arrangements would be lifted.
74.	Section 139	Power to direct a principal council (A) to provide information to the Welsh Ministers with any information appropriate to the transfer of functions from council A to another principal council (B) or a new principal council and for council B to provide the Welsh Ministers with any information which they consider appropriate for the purposes mentioned.	The Direction will be used if a principal council does not provide the Welsh Ministers with specified information which would enable the Welsh Ministers to make an informed decision about a voluntary merger application or a potential restructuring. The exercise of the power is entirely dependent on whether individual councils are participating constructively in the exercise of merger or restructuring.

75.	Section 140	Power to direct a principal council (A) to provide information to any relevant body with any information appropriate to the transfer of functions from council A to another principal council (B) or a new principal council and for council B to provide Council A or any relevant body with any information which the Welsh Ministers consider appropriate for the purposes mentioned.	The Direction will be used if a principal council does not cooperate with other relevant bodies in sharing specified information which would facilitate or make proper preparation for a voluntary merger or a restructuring. The exercise of the power is entirely dependent on whether individual councils are participating constructively in the exercise of merger or restructuring.
76.	Section 141	Power to direct the Independent Remuneration Panel for Wales in relation to the performance of its functions in relation to shadow councils and new principal councils.	<p>Section 141 of the Bill will enable the Welsh Ministers to direct the Panel to make determinations for payments in relation to members of shadow councils and for members of the new principal councils in readiness for their coming into existence.</p> <p>The purpose of the direction is to bring shadow councils and councils to be established by merger or restructuring regulations within the ambit of the regime for the remuneration of councillors established by Part 8 of the Local Government (Wales) Measure 2011. Without such direction, shadow councils and newly established councils (in respect of the determinations for the first year of their existence as a fully vested council) would be outside that regime.</p>
77.	Section 143	Power to issue guidance in relation to the Independent Remuneration Panel for Wales.	<p>It may be necessary for the Welsh Ministers to issue guidance to the Panel relating to the exercise of its functions.</p> <p>Guidance could, for example, elaborate on the circumstances of members of shadow councils who were also members of existing councils.</p>

78.	Section 145(2)	Power for the Welsh Ministers to make supplementary, incidental, consequential, transitional or saving provision.	Such regulations will enable provision to be made by the Welsh Ministers to deliver detailed provision which will give effect to a merger or a restructuring provided for by regulations under sections 123 and 130 respectively. Such regulations might concern the transfer of staff and apply the relevant provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 as provided for in section 145(8).
79.	Section 145(3)	Power for the Welsh Ministers to make regulations of general application to make supplementary, incidental, consequential, transitional, transitory or saving provision in respect of merger or restructuring regulations.	Such regulations will enable provision to be made by the Welsh Ministers to deliver detailed provision which could apply to all or several mergers and restructurings which were provided for by regulations made under sections 123 and 130 respectively. Such provision might concern regulations for the establishment and organisation of charter trustees, who might be needed for the purposes of continuing to exercise to inherited civic dignities of councils which were being abolished as part of a merger or restructuring.
80.	Section 145(10)	Power for the Welsh Ministers to make regulations to amend or revoke merger or restructuring regulations, regulations under section 145(2) or section 145(3) and for merger or restructuring regulations to make such amendment or revocation.	Such regulations will enable provision to be made by the Welsh Ministers to make such amendment or revocation as may be necessary should the circumstances of a merger or a restructuring evolve.

Powers relating to non-domestic rating and council tax			
81.	Section 149(2) and 149(8)	Powers for Welsh Ministers to make provision in relation to notices served on persons in relation to Non-Domestic Rates.	Section 149 of the Bill will extend to billing authorities in Wales, existing powers of valuation officers to request information from persons in relation to Non-Domestic Rates. Regulations under section 149(2) may specify additional persons of a description who must provide a billing authority with information to assist it in administering Non-Domestic Rates. Regulations under section 149(8) would enable the Welsh Ministers to make provision about the notices served. The policy intention is to improve administration and compliance in order to assist billing authorities to tackle the known level of fraud and avoidance of Non-Domestic Rates. The Bill amends an existing power.
82.	Section 150	Power for Welsh Ministers to require the supply of information by persons to billing authorities in relation to Non-Domestic Rates.	This provision creates will enable the Welsh Ministers (by regulations) to place a legal duty on specified persons to provide specified information to billing authorities. The policy intention is to ensure billing authorities have the information they need to tackle the known level of fraud and avoidance of Non-Domestic Rates. The provision would place the onus on ratepayers and others to ensure the information they provide to billing authorities for the purposes of Non-Domestic Rates is accurate and timely. The regulations will, for example, specify the nature of the changes in circumstances which require notification to Billing Authorities, and what information must be provided and when, and who is to be placed under the duty. The Regulations also enable the Welsh Ministers to require those persons not complying with the Regulations to pay a penalty with associated rights of appeal.

83.	Section 152	<p>Power for Welsh Ministers to prescribe figures B and C (these are measures of inflation) for the Non-Domestic Rates multiplier on a permanent basis. Amends the existing regulations under Schedule 7 of the Local Government Finance Act 1988.</p>	<p>Regulations will enable the Welsh Ministers to change the index figure should circumstances change.</p>
Powers relating to information sharing between regulators, the AGW and the Welsh Ministers			
84.	Section 156(6) and (7)	<p>Power of the Welsh Ministers to amend, remove or add a new regulator and/or function(s) to the table in this section for the purposes of the sharing of information between the Welsh Ministers, Auditor General for Wales and the relevant regulators.</p> <p>This power includes a power to amend, modify, repeal or revoke any enactment in consequence of, or for the purpose of giving full effect to, any amendments made to the table in this section.</p>	<p>Subject to the conditions set out in subsection (8) being met, this power enables the Welsh Ministers to add, remove or amend entries in the table within this section.</p> <p>The purpose is to ensure that Welsh Ministers are able to amend the table to add existing organisations and/or reflect any changes in the legislation around the relevant regulators, the Welsh Ministers or the Auditor General for Wales which might impact on the information sharing requirements within this section.</p> <p>The power also enables Welsh Ministers, in order to give full effect to any amendment to the table within this section, to amend, modify, repeal or revoke any enactment in consequence of amending the table. The powers in this part are sufficiently broad so as to be able to ensure that Welsh Ministers are able to maintain the effect of the information sharing provisions within this section in the event of any changes to those named in the table or their relevant functions, or for the creation of any future regulators and / or additional relevant functions.</p>

Powers relating to the Local Democracy and Boundary Commission for Wales			
85.	Section 159(5)	Power for the Welsh Ministers to issue guidance to the Local Democracy and Boundary Commission for Wales about the appointment of its chief executive.	<p>The power will enable Welsh Ministers to issue guidance about the process to be adopted when appointing a chief executive.</p> <p>This guidance will focus on the roles and responsibilities of both Welsh Ministers and the Local Democracy and Boundary Commission for Wales when appointing a chief executive, the standards applicable for the appointment and more detailed information about the circumstances in which Welsh Ministers would appoint a chief executive in the future.</p>
Powers relating to fire and rescue authorities in Wales			
86.	Section 163	Power to require a fire and rescue authority in Wales to make a plan in relation to the exercise of the authority's functions, and to impose requirements in relation to such a plan.	The power will allow the performance management arrangements for fire and rescue authorities in Wales to be aligned with the next National Framework for Fire and Rescue Services (due in 2021), and with future iterations of that Framework.
Powers relating to the conduct of community governance polls			
87.	Schedule 12, paragraph 6(5)	Power to make provisions about the conduct of community governance polls.	<p>The power will enable arrangements to be put in place to facilitate community governance polls.</p> <p>The Regulations could be used to set out more detailed arrangements about the standards and operation of community polls.</p>