

**TO: Councillor: Hilary Isherwood
(Chairman)**

Councillors: Bernie Attridge, David Barratt, Marion
Bateman, Chris Bithell, Carolyn Cattermoul, Glenys
Diskin JP, Quentin Dodd, Jim Falshaw, Veronica Gay,
Fred Gillmore, Robin Guest, Ron Hampson, George
Hardcastle, Patrick Heesom, Dennis Hutchinson, Peter
Macfarlane, Peter Pemberton, Aaron Shotton, Owen
Thomas, Arnold Woolley

Your Ref /
Eich Cyf

ur Ref / Ein Cyf ST 0

Date / Dyddiad 11/01/2012

Ask for / Gofynner am Maureen Potter

Direct Dial / Rhif Union 01352 702322

Fax / Ffacs

Dear Sir / Madam,

A meeting of the **CONSTITUTION COMMITTEE** will be held in the **DELYN
COMMITTEE ROOM, COUNTY HALL, MOLD** on **WEDNESDAY, 18 JANUARY
2012** at **14:00** to consider the following items.

Yours faithfully



Democracy and Governance Manager

AGENDA

1. APOLOGIES
2. DECLARATIONS OF INTEREST (INCLUDING WHIPPING
DECLARATIONS)
3. MINUTES
To confirm as a correct record the minutes of the meeting held on
19/10/2011 (copy enclosed).
4. UPDATING COUNCIL CONSTITUTION
Report of Democracy and Governance Manager enclosed

County Hall, Mold. CH7 6NA
Tel. 01352 702400 DX 708591 Mold 4
www.flintshire.gov.uk
Neuadd y Sir, Yr Wyddgrug. CH7 6NR
Ffôn 01352 702400 DX 708591 Mold 4
www.siryfflint.gov.uk

The Council welcomes correspondence in Welsh or English
Mae'r Cyngor yn croesawu gohebiaeth yn y Gymraeg neu'r Saesneg

5. WELSH GOVERNMENT CONSULTATION DOCUMENT ON THE
LOCAL ELECTIONS SURVEY (WALES) REGULATIONS 2012
Report of Democracy and Governance Manager enclosed
6. LOCAL GOVERNMENT BYE-LAWS (WALES) BILL
Report of Democracy and Governance Manager enclosed

CONSTITUTION COMMITTEE
19 OCTOBER 2011

Minutes of the meeting of the Constitution Committee of Flintshire County Council held in County Hall, Mold on Wednesday, 19 October, 2011

PRESENT: Councillor H.T. Isherwood (Chairman)

Councillors: J.B. Attridge, D. Barratt, M. Bateman, R.C. Bithell, J.C. Cattermoul, Q.R.H. Dodd, J.E. Falshaw, V. Gay, F. Gillmore, R.J.T. Guest, R.G. Hampson, G. Hardcastle, P. G. Heesom, H.D. Hutchinson, R.P. Macfarlane, W.O. Thomas and A. Woolley

SUBSTITUTION: Councillor A.M. Halford for P.R. Pemberton

APOLOGIES: Chief Executive and Councillor A.P. Shotton

ALSO PRESENT: Councillor Eng. K. Armstrong-Braun

IN ATTENDANCE:

Head of Planning, Democracy and Governance Manager, Member Engagement Manager, and Committee Officer. For minute no. 38: School Staffing and Governance Manager

32. DECLARATIONS OF INTEREST

There were no declarations of interest.

33. MINUTES

The minutes of the meeting of the Committee held on 20 April 2011, were submitted.

Matters arising

Local Member Guidelines

Councillor R.C. Bithell commented on situations where a Member was approached for assistance on a matter outside that Member's ward and cited the example of housing issues. The Democracy and Governance Manager advised that a letter had been sent to all Members and relevant Heads of Service to remind officers that should a Member speak to them about another ward that they let the local Member know. He referred to the need for a pragmatic and practical approach to be adopted in such circumstances.

Annual Review of Code of Corporate Governance

Councillor P.G. Heesom said he had viewed an updated version of the constitution on the website and that in this version the role of Members had changed. The Democracy and Governance Manager advised the role of Members had not changed and that a report would be provided to the next meeting of the Committee on the amendments made to the constitution under

delegated powers. His report would also explain why the constitution was the length it was.

RESOLVED:

- (a) That the minutes be received, approved and signed by the Chairman as a correct record; and
- (b) That the Democracy and Governance Manager provides a report to the next meeting of the Committee on the length of the constitution and amendments to it under delegated powers.

34. DELEGATED POWERS OF THE HEAD OF PLANNING

The Democracy and Governance Manager introduced a report to consider the recommendations from the Planning Protocol Working Group on the delegated powers of the Head of Planning. He outlined the recommended changes which were detailed in paragraph 2.02 of the report to the existing delegated powers.

The Head of Planning responded to the questions and concerns raised by Members and provided explanations around consistency, interpretation of policy and decision making, the scheme of delegation, site visits, and Town and Community Council involvement. Councillor M. Bateman commented on site visits and said that she felt there was a need for further guidance around public speaking at such visits.

Councillor P.G. Heesom commented on the progress made in the Planning department to make the application process as transparent and informed as possible. He commented on the need for “sound” planning reasons to be provided for site visits and for local Members to submit applications to the Committee.

Councillor R.J.T. Guest referred to the third recommendation in paragraph 2.02 and said the reason that all Flintshire County Council’s planning applications were submitted to Planning Committee was for transparency and the process should be conducted in the full public arena. The Democracy and Governance Manager explained that the delegation scheme did not require all such applications to go to Committee only the Flintshire Planning Code. The Code inconsistently also said the Council’s applications would be processed in the same way as other applications. The Head of Planning advised that the intention was to issue guidance concerning what were and were not sufficient planning reasons for reports being submitted to Committee but the decision would rest with the Chair and Vice Chair and himself.

Councillor Guest suggested that the first and second recommendations as detailed in paragraph 2.02 of the report be accepted but the third recommendation rejected but this was not supported. It was then proposed and seconded that all 3 recommendations be agreed.

RESOLVED:

That the following recommendations from the Planning Protocol Working Group as detailed in paragraph 2.02 of the report be implemented:

- (i) That applications are only submitted to Committee if the Chair, Vice Chair and Head of Planning are satisfied that the local Member has given sufficient planning reasons;
- (ii) That a Committee site visit is only arranged when the Chair, Vice Chair and Head of Planning are satisfied that a sufficient planning reason for a site visit has been provided; and
- (iii) That the Flintshire planning code be amended so that the Council's own applications do not automatically go to Committee for determination.

35. TERMS OF REFERENCE OF PLANNING PROTOCOL WORKING GROUP

The Democracy and Governance Manager introduced a report to consider a recommendation from the Planning Protocol Working Group as to its terms of reference. He provided background information and advised that appendix 2 to the report contained the draft terms of reference which reflected existing working practice, together with the Local Development Plan, and included flexibility to enable future planning issues to benefit from consideration by the Working Group.

Councillor R.J.T. Guest proposed that the Constitution Committee be added to the list of Committees in sub paragraph 7 of the terms of reference, which could refer future planning issues for consideration to the Working Group. The proposal was agreed by Members.

RESOLVED:

That the County Council be recommended to agree the terms of reference for the Planning Protocol Working Group as detailed in appendix 2 of the report with the list of Committees in sub paragraph 7 being amended to include the Constitution Committee.

36. MONITORING OF PLANNING TRAINING

The Democracy and Governance Manager introduced a report to receive a recommendation from the Planning Protocol Working Group concerning Member attendance at planning training. He advised that the Flintshire Planning code stated that Members of the Planning & Development Control Committee (including substitute Members) should attend a minimum of 75% of the training arranged over a period of 2 years. The code also stated that attendance records would be monitored and reported to the Council and any Member who failed to attend the minimum of training sessions may be removed or suspended from the Committee.

Members were asked to consider the attendance records since January 2010 which were appended to the report. The Democracy and Governance Manager advised that the matter had been considered by the Planning Protocol Working Group which had recommended to the Constitution Committee that the 75% required attendance for planning be reduced to 66%. Councillor R.C. Bithell expressed the view that it was not the appropriate time to change the 75% requirement and suggested that the level was not reduced.

The Head of Planning responded to the concerns raised regarding attendance at meetings of the Planning & Development Control Committee and at site visits and said that attendance at site visits was now being recorded. He also addressed the concerns raised around training and acknowledged the need for training sessions to be scheduled at times which afforded Members the maximum opportunity to attend.

The Democracy and Governance Manager suggested that in view of the elections in May the Committee may wish to consider some action to improve the attendance at planning training for the remainder of this Council. He advised that this could include letters being sent to Members and substitute Members of the Committee.

Councillor R.J.T. Guest concurred with the views expressed by Councillor Bithell and suggested that a letter be sent to those Members whose attendance was below 75% encouraging their attendance at future planning training events. It was agreed that the Democracy and Governance Manager would liaise with the Chair and Vice Chair of the Planning & Development Control Committee over the wording of the letter. It was further agreed that paragraph 3.4, Section 3, of the Planning Code of Best Practice be amended to reflect that attendance records would be monitored and reported to the Planning Protocol Working Group instead of County Council.

RESOLVED:

- (a) That the Democracy and Governance Manager liaise with the Chair and Vice Chair of the Planning and Development Control Committee over the wording of a letter to those Members below 75% attendance encouraging their attendance at future planning training events; and
- (b) That paragraph 3.4, Section 3, of the Planning Code of Best Practice be amended to read that attendance records would be monitored and reported to the Planning Protocol Working Group instead of the Council.

37. OVERVIEW & SCRUTINY COMMITTEES – AMENDMENT TO TERMS OF REFERENCE

The Democracy and Governance Manager asked that the Committee consider a slight change to the terms of reference of two of the Overview and Scrutiny Committees to avoid the potential for doubt and duplication.

RESOLVED:

That the Committee commended the following changes to be incorporated into the Constitution:

- (i) That the terms of reference of the Community Profile & Partnerships Overview & Scrutiny Committee be amended to remove the phrase 'Performance Framework and co-ordination'; and
- (ii) That the terms of reference of the Corporate Resources Overview & Scrutiny Committee be amended to change the phrase 'Overview of Performance Management' to 'Overview and co-ordination of the Performance Management Framework'.

38. PANEL FOR THE APPOINTMENT OF LEA GOVERNORS

The Democracy and Governance Manager introduced a report to review the arrangements, powers and responsibilities of the panel for the appointment of LEA Governors. He advised that at the meeting of the LEA Governors Panel held on 17 June 2011 it was decided that there should be more transparency introduced into the nomination process by clearly specifying the criteria for choosing between candidates that were nominated. He continued that nomination forms should also make it clear that a nomination could only be objected to on the basis that the candidate did not meet the criteria or satisfy the relevant regulations.

The Democracy and Governance Manager advised that the criteria to be used for deciding on the suitability of a candidate was outlined in paragraphs 3.02 and 3.03 of the report. He reported that time limits had been introduced to the nomination process to reduce the time taken to "fill" vacancies.

Members raised a number of points regarding how prospective candidates could be expected to demonstrate their skills or understanding of some of the criteria applied and on the recruitment of suitable candidates.

The School Staffing and Governance Manager responded to the points raised and suggested a number of initiatives which the Authority and Governing Bodies could undertake to assist with the process of nomination and recruitment.

Members commented on the School Governors' Development programme and asked if the training provided was well attended. The School Staffing and Governance Manager reported that overall there was a good uptake of the training offered and work was in progress to encourage attendance from governing bodies where there had been no representation to date. Members expressed appreciation on the high standard of the development programme and the advice and support provided by the School Staffing and Governance Manager and officers.

RESOLVED:

That the Committee endorse the recommendations of the Panel as detailed in paragraphs 3.01 to 3.08 of the report for consideration by the Executive.

39. MEMBERSHIP OF THE CHILDREN'S FORUM

The Democracy and Governance Manager introduced a report to request that the Committee give consideration to expanding the membership of the Children's Forum. He explained minor changes to the recommendation in the report. Members made reference to the considerations in the report.

RESOLVED:

- (a) That the Committee recommend to the Executive and the Council that the formal membership of the Children's Forum be expanded to include a representative from the Betsi Cadwaladr University Health Board; and
- (b) That the provision in the Constitution be amended to reflect the membership of the Forum agreed on 1 August 2006 updated to reflect the current Executive portfolios of the Members.

40. LOCAL GOVERNMENT (WALES) MEASURE 2011

The Democracy and Governance Manager introduced a report to provide Members with an overview of the Local Government Measure and its implications for Flintshire.

RESOLVED:

That the provisions of the Measure and implications for Flintshire be noted.

41. PRESS IN ATTENDANCE

There were no members of the press in attendance.

42. DURATION OF MEETING

The meeting commenced at 2.00 pm and finished at 4.30 pm.

.....

Chairman

SUMMARY OF DECLARATIONS MADE BY MEMBERS
IN ACCORDANCE WITH FLINTSHIRE COUNTY COUNCIL'S
CODE OF CONDUCT

CONSTITUTION COMMITTEE		DATE 19 October 2011
MEMBER	ITEM	MIN. NO. REFERS
NO DECLARATIONS WERE MADE		

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 4

REPORT TO: **CONSTITUTION COMMITTEE**
DATE : **18 JANUARY 2012**
REPORT BY: **DEMOCRACY AND GOVERNANCE MANAGER**
SUBJECT : **UPDATING COUNCIL CONSTITUTION**

1.00 PURPOSE OF REPORT

- 1.01 To clarify the way in which changes and updates to the Council's Constitution are made.

2.00 BACKGROUND

- 2.01 At the Constitution Committee meeting on the 19 October 2011 a Member commented that there had been significant changes made to the role of Members in the updated version of the Constitution which had appeared on the Council's website on the 27 September 2011. The Democracy & Governance Manager explained that there had not been changes made to the role of Members but only minor updates made under the delegated powers of the Head of Legal & Democratic Services. He suggested that a report be brought to the next meeting of the Committee and this was agreed.
- 2.02 The requirement for local authorities to have written Constitutions containing certain information was introduced by sections 37 and 38 of the Local Government Act 2000. These provisions require local authorities to include in their Constitution such information as directed by the Welsh Government and regard must also be had to guidance issued by the Welsh Government. This has led to the unitary authorities in Wales all having similar long modular Constitutions based on the guidance that has been issued. Flintshire's Constitution runs to over 450 pages and a copy of the contents is attached as appendix 1.
- 2.03 Adopting and changing the Constitution is a Council function rather than an Executive function [Article 4, paragraph 4.02 (a)]. Article 18 of the Constitution puts a duty on the Council's Monitoring Officer to monitor and review the operation of the Constitution and Article 13 requires the Constitution Committee to consider reports from the Monitoring Officer prior to proposed changes being considered by the County Council.

3.00 CONSIDERATIONS

- 3.01 Due to the length and level of detail contained in the Constitution, combined with it incorporating in parts 4 to 7 other documents, there is a constant need for it to be updated. Attached as appendix 2 are the updates that have been made in the last 2 years.

- 3.02 The amendments that have been made to the Constitution fall into two categories. Firstly, those that are substantive changes following consideration by the Constitution Committee and County Council. Secondly, necessary updates as a result of changes to legislation, officers job titles or because documents incorporated into the Constitution have themselves been updated following reports to the Executive. It has always been the custom and practice for such amendments to be made by the Head of Legal & Democratic Services/Monitoring Officer under delegated powers.
- 3.03 A comparison of Flintshire's Constitution with those of other North Wales authorities shows a large degree of similarity. They do however, vary as to how minor changes to the Constitution can be made. Conwy's Constitution reflects Flintshire's custom and practice in that whilst changes of substance have to be approved by the Council, minor or consequential changes can be made by the Monitoring Officer, albeit in consultation with the Council Chair and the Chair of the Constitution Committee. It is considered that the transparency of the current custom and practice would be improved if the Council's Constitution was amended.
- 3.04 The Council Chair and Chair of the Constitution Committee have been consulted on this report. Whilst the Chair of the Constitution Committee is agreeable to being consulted on any minor or consequential changes the Council Chair considers it could lead to accusations of political bias if the Council Chair was consulted.

4.00 RECOMMENDATIONS

- 4.01 To recommend to Council that article 18 be amended to make clear the distinction between changes of substance, which need to be approved by County Council and minor or consequential changes that can be made by the Head of Legal & Democratic Services/Monitoring Officer under delegated powers following consultation with the Chair of the Constitution Committee.

5.00 FINANCIAL IMPLICATIONS

- 5.01 None as a result of this report.

6.00 ANTI POVERTY IMPACT

- 6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

- 7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

- 8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

9.01 None as a result of this report.

10.00 CONSULTATION REQUIRED

10.01 None as a result of this report.

11.00 CONSULTATION UNDERTAKEN

11.01 Head of Legal & Democratic Services/Monitoring Officer, Council Chair, Chair of Constitution Committee

12.00 APPENDICES

12.01 Appendix 1 - Flintshire County Council's Constitution contents page.
Appendix 2 - List of amendments made to the Constitution

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

None

Contact Officer: Peter J Evans
Telephone: 01352 702304
E-Mail: peter_j_evans@flintshire.gov.uk

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APPENDIX 2**Amendments to Constitution**

Date amendment made	Page No	Summary of amendment
14 Oct 09	401	Update Planning Code of Practice para 9.3 Format and Conduct at the Site Visit and 10. PROCEDURE AT PLANNING COMMITTEE
20 Jan 2010	27	Article 10 – Standards Committee – Update (b) (i)
27 April 2010	403	Updated Planning Code of Practice, Section 12 Planning Appeals
April	448 to 455	New Members Allowances Scheme
14 May 2010	117	TS15 added to Head of Technical Services (Del Scheme)
14 May 2010	204	New Financial Procedure Rules inserted
4 August 2010	423	Members Allowances Scheme updated
9 August 2010	125	Portfolios updated with new titles etc
5 October 2010	187	Updated Terms of Reference for O&S Committees
3 November 2010	415 to 480	Update the Planning Code of Practice by amending job titles and departments
4 January 2011	17	Article 6 – Overview and Scrutiny Committees – new table for Terms of Ref
17 January 2011	410 to 415	Whistleblowing Policy updated

Date amendment made	Page No	Summary of amendment
17 January 2011	462 to 470	Corporate Anti-Fraud & Corruption updated
17 January 2011	471 to 474	Fraud & Irregularity Response Plan updated
10 February 2011	135	Item 10.01 Public Question Time deleted text and inserted new text after the comma on the first line
21 April 2011	79	Add 9. North Wales Residual Waste Joint Committee
21 April 2011	432	Code of Corporate Governance updated
5 July 2011	210	Financial Procedure Rules updated
5 July 2011	456	Audit Charter
27 Sept 2011	127	Changed job title from Head of Public Protection to Interim Public Protection Manager
17 October 2011	39	Article 15 – Officers – Director of Community Services – add new para “To act as the statutory Social Services Act 1970”
16 November 2011	325 etc	Amend reference to Corruptions Acts 1889 to 1916 to Bribery Act 2010 throughout the Constitution
28 November 2011	424	Planning Code of Best Practice Item 7.3 deleted
28 November 2011	420	3.4 amended to read “Attendance records will be monitored and reported to the Planning Protocol Working Group” (Deleted the word Council)

Date amendment made	Page No	Summary of amendment
28 November 2011	204	No. 5 amended to add the words after overview “and coordination of the.....”
28 November 2011	205	No. 4 deleted the words “Performance Framework and Coordination”
28 November 2011	191	Right-hand boxes amended to reflect the changes made on pages 204 and 205 in Corporate Resources and Community Profile & Partnership
28 November 2011	17	Article 6 amended as on pages 204 and 205
28 November 2011	78	Added new 5.6 to refer to Planning Protocol Working Group and changed the following numbers accordingly

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 5

REPORT TO: **CONSTITUTION COMMITTEE**
DATE : **18 JANUARY 2012**
REPORT BY: **DEMOCRACY AND GOVERNANCE MANAGER**
SUBJECT : **WELSH GOVERNMENT CONSULTATION DOCUMENT ON**
 THE LOCAL ELECTIONS SURVEY (WALES) REGULATIONS
 2012

1.00 PURPOSE OF REPORT

- 1.01 To decide on a response to the Welsh Government consultation on the proposed Local Elections Survey (Wales) Regulations 2012.

2.00 BACKGROUND

- 2.01 Section 1 of the Local Government (Wales) Measure 2011 imposes a duty on each county and county borough council (herein referred to as county councils) to conduct a survey of those who stood as candidates in their area after each ordinary election. This encompasses candidates for both the County Council and for Town and Community Councils.
- 2.02 The aim of the survey is expressed to be "To enable regular monitoring of the diversity of candidates and councillors and to provide more regular data which will enable policy makers to assess the effectiveness of initiatives designed to improve diversity in council chambers".
- 2.03 Section 1(4) of the Measure sets out the fields of enquiry to which the questions may relate and these are:-
- Gender
 - Sexual Orientation
 - Language
 - Race
 - Age
 - Disability
 - Religion or belief
 - Health
 - Education and qualifications
 - Employment
 - Work as a councillor

- 2.04 On the 20 December 2011 the Welsh Government issued a consultation document seeking responses by the 24 January on draft Local Elections Survey (Wales) Regulations 2012 and draft Statutory Guidance. The draft Regulations are attached as Appendix 1 and the draft Guidance as Appendix 2. Copies of the consultation documents have been sent to the Leader and Group Leaders with copies also placed in Members' Services and the Group Rooms.

3.00 CONSIDERATIONS

- 3.01 Despite representations made in response to consultation on the draft Local Government (Wales) Measure 2011 the Measure has imposed a duty on each county council in Wales rather than the survey being conducted across Wales by one body.
- 3.02 County councils will have six months from the date of the ordinary election to collect and collate the data and forward it to the Welsh Government. The Welsh Government will then aggregate the information provided by the different local authorities and publish the results within 12 months of the elections.
- 3.03 There is to be no obligation on a candidate to return the questionnaire and there will be no requirement on local authorities to issue reminders to recipients of the forms. The information will be obtained and collated so as not to identify any individual.
- 3.04 The survey form will be supplied electronically to each county council by the Welsh Government together with a covering letter to be distributed with the forms. None of the prescribed questions can be changed or added to. In collecting information from the returned forms county councils will need to distinguish between those who have been successful and those who have been unsuccessful candidates and to distinguish between candidates for the County Council and for Town/Community Councils.
- 3.05 The Welsh Government is to make £35k available in 2012/13 to be divided amongst the 22 county councils and the draft Statutory Guidance indicates that this will meet the cost of the exercise. In the 2008 elections there were a total of 637 candidates in Flintshire. It is believed that the cost of the 22 local authorities conducting their survey will be greater than the £35k the Welsh Government is making available.
- 3.06 The draft survey that has been produced includes questions that go beyond those which Section 1(4) of the Measure specified and requests details of an individual's party affiliation, involvement with the third sector and length of political activity. It is believed that the questionnaire is sufficiently long and detailed without including these areas of questioning. The draft survey runs to 8 sides of paper covering 21 different questions.
- 3.07 Question 3 of the draft asks the status of the candidate following the election but only gives a choice between councillor and unelected. It is a requirement of the survey that the results are collated to separate between successful and unsuccessful candidates for both county council and town/community councils. It is therefore

believed that the options to question 3 should be amended to County Councillor, Town/Community Councillor and Unelected.

4.00 RECOMMENDATIONS

- 4.01 It is recommended that under the Head of Legal & Democratic Services' delegated powers a response to consultation is made which includes the points detailed in paragraphs 3.05, 3.06 and 3.07 above and any points determined by the Committee.

5.00 FINANCIAL IMPLICATIONS

- 5.01 Whilst the Welsh Government states that the cost of the exercise will be borne by the Welsh Government, it is believed that the total costs will exceed the £35k that has been provided to meet the costs of the 22 county councils involved.

6.00 ANTI POVERTY IMPACT

- 6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

- 7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

- 8.01 One of the aims of the survey is to ascertain the effectiveness of policies aimed at widening participation in local government over time.

9.00 PERSONNEL IMPLICATIONS

- 9.01 Supplying the survey form to each candidate for county and town/community elections, dealing with queries and collating the results in the way required by the Welsh Government will involve additional workload for Democratic Services staff.

10.00 CONSULTATION REQUIRED

- 10.01 None as a result of this report.

11.00 CONSULTATION UNDERTAKEN

- 11.01 Consultation with the Leader and political Group Leaders.

12.00 APPENDICES

- 12.01 Appendix 1 - draft Regulations
Appendix 2 - draft Guidance

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

BACKGROUND DOCUMENTS

None

Contact Officer: Peter J Evans
Telephone: 01352 702304
E-Mail: peter_j_evans@flintshire.gov.uk

Contact Officer: Peter J Evans

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2012 No. (W.)

**LOCAL GOVERNMENT,
WALES**

**The Local Election Survey (Wales)
Regulations 2012**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 1 of the Local Government (Wales) Measure 2011 imposes a duty on a local authority (a county council or a county borough council), in accordance with regulations, to conduct a survey after each ordinary election to the council of the county or county borough and to the community council (normally held concurrently every four years) in the local authority's area.

A local authority must conduct the survey by asking prescribed questions of councillors and unsuccessful candidates who have stood for election as councillors in the local authority's area.

These Regulations prescribe the questions that a local authority must ask when conducting a local election survey. The prescribed questions and the form in which they may be asked are set out in the Schedule to the Regulations.

The prescribed questions relate to gender, sexual orientation, language, race, age, disability, religion or belief, health, education and qualifications, employment, work as a councillor, party affiliation, involvement with the third sector and length of political activity.

These Regulations prescribe that the survey information must be collated in an electronic spreadsheet. Details relating to the spreadsheet will be included in guidance.

In addition, these Regulations prescribe that the manner in which the collated information must be provided to the Welsh Ministers is by electronic spreadsheet.

2012 No. (W.)

**LOCAL GOVERNMENT,
WALES**

**The Local Election Survey (Wales)
Regulations 2012**

Made ***

Laid before the National Assembly for Wales

Coming into force ***

The Welsh Ministers, in exercise of the powers conferred upon them by sections 1(3)(a), 1(3)(b), 2 (2), and 175, of the Local Government (Wales) Measure 2011⁽¹⁾ make the following Regulations:

Title and commencement

1.—(1) The title of these Regulations is the Local Election Survey (Wales) Regulations 2012.

(2) These Regulations come into force on xxx 2012.

Interpretation

2. In these Regulations—

“the Measure” (“*y Mesur*”) means the Local Government (Wales) Measure 2011.

Survey questions and form

3. For the purposes of section 1(3) (a) of the Measure, the questions and the form in which they are to be asked are set out in the Schedule.

Collation of survey information

4.—(1) For the purposes of section 1(3) (b) of the Measure, the information must be collated in an electronic spreadsheet.

(1) 2011 (nawm 4).

Provision of survey information

5. For the purposes of section 2(2) of the Measure, the collated information must be provided to the Welsh Ministers by electronic spreadsheet.

Name

Minister for Local Government and Communities, one of the Welsh Ministers

Date

SCHEDULE

Survey of Local Government Candidates in Wales

<i>No</i>	<i>Question</i>		<i>Response</i>
1	At the last local government election, did you stand for election to a: (please tick all that apply).	• County or County Borough Council	
		• Community or Town Council	
2.	In which County Council or County Borough Council did you stand for election? (If you stood for election to a Community or Town Council, please tick the county or county borough in which it is located).	• Blaenau Gwent	
		• Bridgend	
		• Caerphilly	
		• Cardiff	
		• Carmarthenshire	
		• Ceredigion	
		• Conwy	
		• Denbighshire	
		• Flintshire	
		• Gwynedd	
		• Isle of Anglesey	
		• Merthyr Tydfil	
		• Monmouthshire	
		• Neath Port Talbot	
		• Newport	
		• Pembrokeshire	
		• Powys	
		• Rhondda Cynon Taf	
		• Swansea	
		• Vale of Glamorgan	
		• Wrexham	

3	What is your status following the local government election? (please tick as appropriate)	<ul style="list-style-type: none"> • Councillor 	
		<ul style="list-style-type: none"> • Unelected 	
4	In the local government election, which party, if any, were you representing? (please tick as appropriate)	<ul style="list-style-type: none"> • Independent 	
		<ul style="list-style-type: none"> • Plaid Cymru 	
		<ul style="list-style-type: none"> • Welsh Conservative Party 	
		<ul style="list-style-type: none"> • Welsh Labour Party 	
		<ul style="list-style-type: none"> • Welsh Liberal Democrats 	
		<ul style="list-style-type: none"> • Other (please specify) 	
5	Have you stood for election to a council in the past? (please tick as appropriate)	<ul style="list-style-type: none"> • Yes (County or County Borough Council) 	
		<ul style="list-style-type: none"> • Yes (Community or Town Council) 	
		<ul style="list-style-type: none"> • No 	
6	Have you served as a councillor in the past? (please tick as appropriate)	<ul style="list-style-type: none"> • Yes (County or County Borough Council) 	
		<ul style="list-style-type: none"> • Yes (Community or Town Council) 	
		<ul style="list-style-type: none"> • No 	

7	If yes, how many years in total have you served as a councillor? Please include all periods of office that you have served as a councillor.	<ul style="list-style-type: none"> Years 	
8	Are you: (please tick as appropriate)	<ul style="list-style-type: none"> Male 	
		<ul style="list-style-type: none"> Female 	
9	What age were you on your last birthday?	<ul style="list-style-type: none"> Years 	
10	What is your ethnic group? (please tick as appropriate)	A. White <ul style="list-style-type: none"> Welsh/English/Scottish/Northern Irish/British 	
		<ul style="list-style-type: none"> Irish 	
		<ul style="list-style-type: none"> Gypsy or Irish Traveller 	
		<ul style="list-style-type: none"> Any other White background, please specify 	
		B. Mixed/multiple ethnic groups <ul style="list-style-type: none"> White and Black Caribbean 	
		<ul style="list-style-type: none"> White and Black African 	
		<ul style="list-style-type: none"> White and Asian 	
		<ul style="list-style-type: none"> Any other Mixed/multiple ethnic background, please specify 	
		C. Asian/Asian British <ul style="list-style-type: none"> Indian 	
		<ul style="list-style-type: none"> Pakistani 	
		<ul style="list-style-type: none"> Bangladeshi 	
		<ul style="list-style-type: none"> Chinese 	
		<ul style="list-style-type: none"> Any other Asian background, please specify 	
		D. Black/African/Caribbean/Black British <ul style="list-style-type: none"> African 	

		<ul style="list-style-type: none"> • Caribbean 	
		<ul style="list-style-type: none"> • Any other Black/African/Caribbean background, please specify 	
		E. Other ethnic group <ul style="list-style-type: none"> • Arab 	
		<ul style="list-style-type: none"> • Any other ethnic group, please specify 	
11	What is your religion?	<ul style="list-style-type: none"> • No religion 	
		<ul style="list-style-type: none"> • Christian (all denominations) 	
		<ul style="list-style-type: none"> • Buddhist 	
		<ul style="list-style-type: none"> • Hindu 	
		<ul style="list-style-type: none"> • Jewish 	
		<ul style="list-style-type: none"> • Muslim 	
		<ul style="list-style-type: none"> • Sikh 	
		<ul style="list-style-type: none"> • Any other religion, please specify 	
12	Do you consider yourself to be: (please tick as appropriate)	<ul style="list-style-type: none"> • Heterosexual or straight 	
		<ul style="list-style-type: none"> • Gay or lesbian 	
		<ul style="list-style-type: none"> • Bisexual 	
		<ul style="list-style-type: none"> • Other 	
		<ul style="list-style-type: none"> • Prefer not to say 	
13	What is your employment status? (please tick as appropriate)	<ul style="list-style-type: none"> • Self employed 	
		<ul style="list-style-type: none"> • In full time employment 	
		<ul style="list-style-type: none"> • In part-time employment 	
		<ul style="list-style-type: none"> • Unemployed 	
		<ul style="list-style-type: none"> • Retired 	
		<ul style="list-style-type: none"> • On maternity leave 	
		<ul style="list-style-type: none"> • Looking after family or home 	
		<ul style="list-style-type: none"> • Full-time student 	
		<ul style="list-style-type: none"> • Long term sick or disabled 	

		<ul style="list-style-type: none"> On a government training scheme 	
		<ul style="list-style-type: none"> Unpaid worker in family business 	
		<ul style="list-style-type: none"> Doing something else (please specify) 	
14	What category best describes your current or most recent employment sector? (please tick as appropriate)	<ul style="list-style-type: none"> Local government 	
		<ul style="list-style-type: none"> Central government 	
		<ul style="list-style-type: none"> NHS 	
		<ul style="list-style-type: none"> Education 	
		<ul style="list-style-type: none"> Other public sector 	
		<ul style="list-style-type: none"> Private sector 	
		<ul style="list-style-type: none"> Voluntary sector 	
		<ul style="list-style-type: none"> Other (please specify) 	
15	Have you given unpaid help to any of these types of groups or organisations at any time in the last 12 months? (please tick all that apply).	<ul style="list-style-type: none"> Children's education/schools 	
		<ul style="list-style-type: none"> Youth/children's activities (outside school) 	
		<ul style="list-style-type: none"> Education for adults 	
		<ul style="list-style-type: none"> Sports or exercise (e.g. coaching) 	
		<ul style="list-style-type: none"> Religious or faith based group 	
		<ul style="list-style-type: none"> Gender group 	
		<ul style="list-style-type: none"> Sexuality group 	
		<ul style="list-style-type: none"> Political party 	

		<ul style="list-style-type: none"> • Health, disability or social welfare group 	
		<ul style="list-style-type: none"> • The elderly 	
		<ul style="list-style-type: none"> • First Aid 	
		<ul style="list-style-type: none"> • Environment group 	
		<ul style="list-style-type: none"> • Animal rights group 	
		<ul style="list-style-type: none"> • Justice and Human Rights 	
		<ul style="list-style-type: none"> • Community or neighbourhood group 	
		<ul style="list-style-type: none"> • Citizens' group 	
		<ul style="list-style-type: none"> • Social club 	
		<ul style="list-style-type: none"> • Trade Union 	
		<ul style="list-style-type: none"> • Other (please specify) 	
		<ul style="list-style-type: none"> • None 	
16	What is your <u>highest</u> education qualification? (please tick as appropriate)	<ul style="list-style-type: none"> • None 	
		<ul style="list-style-type: none"> • 'O' level, GCSE, CSE, NVQ 1/2 or equivalent 	
		<ul style="list-style-type: none"> • 'A' level, NVQ 3 or equivalent 	
		<ul style="list-style-type: none"> • HND, NVQ level 4 or equivalent 	
		<ul style="list-style-type: none"> • Degree 	
		<ul style="list-style-type: none"> • Postgraduate qualification, NVQ level 5 or equivalent 	
		<ul style="list-style-type: none"> • Professional qualification (e.g. accountancy) 	
17	How is your health in general? (please tick as appropriate)	<ul style="list-style-type: none"> • Very good 	
		<ul style="list-style-type: none"> • Good 	
		<ul style="list-style-type: none"> • Fair 	

		<ul style="list-style-type: none"> • Bad 	
		<ul style="list-style-type: none"> • Very bad 	
18	Do you have any long-standing illness, disability or infirmity? That is, anything that has troubled you over a period of time or that is likely to affect you over a period of time? (please tick as appropriate)	<ul style="list-style-type: none"> • Yes 	
		<ul style="list-style-type: none"> • No 	
19	If yes, does this illness or disability limit your activities in any way? (please tick as appropriate)	<ul style="list-style-type: none"> • Yes 	
		<ul style="list-style-type: none"> • No 	
20	Can you understand, speak, read or write Welsh? (please tick all that apply)	<ul style="list-style-type: none"> • Understand spoken Welsh 	
		<ul style="list-style-type: none"> • Speak Welsh 	
		<ul style="list-style-type: none"> • Read Welsh 	
		<ul style="list-style-type: none"> • Write Welsh 	
		<ul style="list-style-type: none"> • None of the above 	
21	What is your main language? (please tick all that apply)	<ul style="list-style-type: none"> • English 	

		<ul style="list-style-type: none"> • Welsh 	
		<ul style="list-style-type: none"> • Other, (including British Sign Language) please specify 	

SURVEY OF COUNCILLORS AND UNSUCCESSFUL CANDIDATES

Statutory Guidance made under Section 3 of the Local Government (Wales) Measure 2011

Introduction

Part 1 of the Local Government (Wales) Measure 2011 (“the Measure”) provides for the strengthening of local democracy and Chapter 1 of that Part concerns the promoting and supporting of membership of local authorities. Sections 1 to 3 make provisions for a survey of councillors and unsuccessful candidates for election as councillors.

The rationale behind a survey is that it would reveal the characteristics of those standing for election and those who get elected to local government at the normal elections (not by-elections). In order to allow for changes in the profile of candidates and councillors to be tracked over time, it is considered that the survey should be repeated after each ordinary election and this requirement is stipulated in section 1 of the Measure. The purpose of the survey is to ascertain the effectiveness of policies aimed at widening participation in local government over time.

What the Measure requires

Under section 1 of the Measure, each county and county borough council will be required – through regulations – to conduct a survey of their elected councillors and the unsuccessful candidates in their area after each ordinary election. This will relate to councillors and candidates at both county and community level. The questions to be included in the survey will be stipulated in the regulations and the form containing the questions will be prescribed in regulations, which will also describe how the results are to be collated. The draft regulations are entitled “The Local Election Survey (Wales) Regulations 2012”.

Section 1 (4) of the Measure provides that the questions may relate to the following:

- Gender
- Sexual orientation
- Language
- Race
- Age
- Disability
- Religion or belief
- Health

- Education and qualifications
- Employment
- Work as a councillor

The questions will also request details of an individual's party affiliation, involvement with the third sector and length of political activity.

There is to be no obligation on a councillor or unsuccessful candidate to return the questionnaire, though clearly the higher response rate achieved, the more reliable the data will be. Any information that is gathered will be anonymous, i.e. the individual forms to be returned will not require the name of the respondent and collated results will not identify individual responses either.

Local authorities will have six months from the date of the ordinary election to collect and collate the data and forward it to the Welsh Government. The cost of the exercise will be borne by the Welsh Government, who will recompense local authorities in accordance with the details below.

Local authorities may publish their results but will need to be careful that they are not presented in such a way as to enable identification of any individual candidate. If, for instance, there were only one candidate from a minority ethnic group, results could not be disaggregated by ethnicity, showing other characteristics according to ethnic group, as it would be clear that all characteristics indicated for that group were the characteristics of the single individual.

The Welsh Government will aggregate the information provided by different local authorities and publish the results within twelve months of the local elections. It will be for the appropriate Minister to decide in what form the results will be published and the degree of detail but the information received by the Welsh Government will be shared with the WLGA and One Voice Wales.

Content of regulations

Local authorities must, in accordance with regulations send a copy of the survey form to every elected councillor at county and community level and to every unsuccessful candidate. Forms sent to elected members will need marking to distinguish them from unsuccessful candidates and also to distinguish county and community councillors, although it will not be necessary to distinguish between different community councils. Local authorities may prefer to issue the forms to individuals as they submit their nomination papers. Should they do so, they will need to ensure that they are able to differentiate between successfully elected councillors and others. Local authorities may also wish to issue reminders to recipients to return their forms but will not be required to do so. If they do, they will need to devise a system for recording which individuals had already returned their forms.

The survey form will be supplied electronically to each local authority by the Welsh Government, together with a covering letter to be distributed with the forms. None of the prescribed questions can be changed or supplemented. Only the prescribed questions can be used in the survey.

The Welsh Government will also provide an electronic spreadsheet for the recording of the results, which again will need to provide for distinguishing the results for elected councillors. It will be important, however, for the elected councillors to be included within the overall results and then the results for the two groups of elected councillors separated out.

Draft questionnaire

See the Schedule to the draft regulations

Format of spreadsheet for recording results

See separate Annex to this guidance

Transmission of results to Welsh Government

The Measure requires that each local authority must complete its survey and provide collated information to the Welsh Government within six months of the local elections. The spreadsheet makes clear that the data must show the collated results for all candidates at, separately, the community and county elections, and also the results for all the elected councillors, in the two separate categories. In each category, the response rate must be shown. The completed spreadsheet should be transmitted electronically to the Welsh Government.

The Welsh Government will collate and publish all-Wales results, including a county breakdown, within a year of the elections and will share the data with the WLGA, One Voice Wales and will consider any other reasonable requests for access.

Finance

The Welsh Government will make available £35,000 in 2012/13 to be divided among all 22 local authorities. The division will be based on the number of candidates that stood in each local authority in the 2008 local elections. Similar provision will be made following each ordinary election -the finance will be allocated in accord with numbers of candidates at the previous elections.

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 6

REPORT TO: **CONSTITUTION COMMITTEE**
DATE : **18 JANUARY 2012**
REPORT BY: **DEMOCRACY AND GOVERNANCE MANAGER**
SUBJECT : **LOCAL GOVERNMENT BYE-LAWS (WALES) BILL**

1.00 PURPOSE OF REPORT

- 1.01 To inform the Committee of the Local Government Bye-laws (Wales) Bill and to determine a response to consultation on it.

2.00 BACKGROUND

- 2.01 By letter dated 8 December 2011 the Communities, Equality and Local Government Committee of the National Assembly consulted on the Local Government Bye-laws (Wales) Bill seeking responses to its consultation questions by the 2 February 2012. A copy of the letter is attached as Appendix 1 and this includes a description of the Committee's role.
- 2.02 The expressed purpose of the proposed Bill is to simplify procedures for making and enforcing local authority bye-laws. The Bill introduces an alternative procedure for local authorities to following in making a number of bye-laws. It also provides for certain new bye-laws to be enforced through fixed penalty notices.
- 2.03 Copies of the consultation documentation have been sent to the Leader and political Group Leaders and also made available in Members' Services and in the Group Rooms.

3.00 CONSIDERATIONS

- 3.01 The Local Government Policy Statement 'A Shared Responsibility' issued in March 2007 acknowledged that the current system of making, confirming and enforcing most bye-laws was overly bureaucratic, outdated and cumbersome. The Bill seeks to streamline the procedure for making bye-laws primarily by removing the requirement for confirmation by Welsh Ministers of specified new bye-laws. This new simplified process will apply to those bye-laws which address very localised and specific issues whilst those bye-laws having wider implications, such as bye-laws relating to the environment or the employment of children, will continue to require confirmation by Welsh Ministers.
- 3.02 The Bill also provides an alternative form of enforcement through fixed penalty notices which aims to be a more effective and efficient form of enforcement action than through the Magistrates Courts. The Bill therefore provides fixed penalty notices as an optional means of enforcement by local authorities for certain bye-laws

Date: 11/01/2012

listed in the Bill and retains the option of enforcement through the Magistrates Courts.

- 3.03 The proposed Bill also seeks to ensure that before a bye-law is made the authority undertakes an initial consultation with those potentially affected in order to explore whether a bye-law is the most appropriate solution. This will result in a statement which scopes the problem, provides a summary of community views, the decision reached and the rationale for that decision.
- 3.04 The explanatory memorandum for the Bill makes clear that there are a large number of bye-law powers which continue to provide an effective and flexible method of addressing a variety of local problems. Paragraph 3.4 of the explanatory memorandum goes on to indicate that although the number of bye-laws made each year is not expected to change materially as a result of the Bill, the previous process may have well deterred local authorities from making new bye-laws in the past. This does seem rather inconsistent. It is suggested that in response to consultation it should be pointed out that the simplified new process is likely to lead to an increase in the number of bye-laws made, if only to update old bye-laws and take advantage of being able to impose fixed penalties.
- 3.05 Annexe 1 to the consultation document sets out the specific questions the Committee is seeking a response to and this is attached as Appendix 2 to this report together with proposed responses to the specified questions.

4.00 RECOMMENDATIONS

- 4.01 That the Committee note the provisions in the Local Government Bye-laws (Wales) Bill.
- 4.02 That under the Head of Legal & Democratic Services' delegated powers a response to consultation is sent as in Appendix 2 to this report subject to any amendment determined by the Committee.

5.00 FINANCIAL IMPLICATIONS

- 5.01 None as a result of this report.

6.00 ANTI POVERTY IMPACT

- 6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

- 7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

- 8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

- 9.01 The Bill is likely to lead to an increase in the number of bye-laws introduced by the County Council which in turn will increase the workload of the Council's Legal staff.

10.00 CONSULTATION REQUIRED

- 10.01 None.

11.00 CONSULTATION UNDERTAKEN

- 11.01 With the Leader and political Group Leaders.

12.00 APPENDICES

- 12.01 Appendix 1 - letter of 8 December 2011 from the Communities, Equality and Local Government Committee.

Appendix 2 - specific questions asked by the Committee and the Council's response to the consultation.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

1. Explanatory memorandum to Local Government Byelaws (Wales) Bill
2. Draft Local Government Byelaws (Wales) Bill

Contact Officer: Peter J Evans
Telephone: 01352 702304
E-Mail: peter_j_evans@flintshire.gov.uk

Communities, Equality and Local
Government Committee



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff CF99 1NA

8 December 2011

Dear Sir / Madam

Consultation on *Local Government Byelaws (Wales) Bill*

As part of its Stage 1 consideration, the National Assembly for Wales' Communities, Equality and Local Government Committee is calling for evidence on the general principles of the *Local Government Byelaws (Wales) Bill*.

What is a Bill?

Under Part 4 of the Government of Wales Act 2006 the National Assembly can pass laws in areas where it has legislative powers to do so.

When a proposal for a new law is introduced in the National Assembly, it is called a 'Bill'.

There is a four stage process for the consideration of a Bill. Stage 1 involves consideration of the general principles of the Bill by a committee (which includes the taking of written and oral evidence from interested parties and stakeholders), and the agreement of those general principles by the Assembly.

When a Bill is passed by the National Assembly and receives Royal Assent it becomes an 'Act of the Assembly'.

What does this Bill seek to achieve?

The Explanatory Memorandum that accompanies the Bill states:

"The proposed Local Government Byelaws (Wales) Bill gives effect to the Welsh Government's proposals to simplify procedures for making

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Ffacs / Fax: 029 2089 8021
Minicom: 029 2082 3280

E-bost / E-mail: celg.committee@wales.gov.uk

and enforcing local authority byelaws. The Bill introduces an alternative procedure for local authorities to follow in making a number of byelaws. For these byelaws, the Bill requires authorities to consult locally before making a byelaw and removes the requirement for confirmation by the Welsh Ministers. The proposed Bill also provides an optional alternative, and more efficient, means of enforcement through fixed penalty notices. Finally, the Bill also recasts and consolidates existing byelaw provisions in sections 235 to 238 of the Local Government Act 1972. This is a step towards the development of a Welsh Statute Book and makes the key legislative provisions relating to making, confirming and enforcing byelaws in Wales accessible in a single enactment."

What is the committee's role?

The role of the committee is to consider and report on the general principles of the Bill. In doing so, the Committee has agreed to work within the following framework:

To consider:

- i) the need for the Bill to deliver the stated objectives of:
 - empowering local authorities to take ownership for local laws;
 - providing a more direct means of enforcement through the use of fixed penalty notices;
- ii) whether the Bill achieves its stated objectives;
- iii) the key provisions set out in the Bill and whether they are appropriate to deliver the objectives;
- iv) potential barriers to the implementation of the key provisions and whether the Bill takes account of them
- v) whether there are any unintended consequences arising from the Bill
- vi) the views of stakeholders who will have to work with the new arrangements

How you can help – the consultation questions

Further details of the Bill and the accompanying Explanatory Memorandum can be found on the National Assembly's website at:

<http://www.senedd.assemblywales.org/mglIssueHistoryHome.aspx?lId=2413>

The Committee would like to invite you to submit written evidence to assist in its scrutiny of the Bill. In particular, we would welcome your views on the questions listed in Annex 1.

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Minicom: 029 2082 3280

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If you wish to submit evidence, please send an electronic copy of your submission to CELG.committee@wales.gov.uk

Alternatively, you can write to:

Leanne Hatcher, Deputy Committee Clerk, Legislation Office, National Assembly for Wales, Cardiff Bay, CF99 1NA.

Submissions should arrive by 2 February 2012, it may not be possible to take into account responses received after this date.

Further information on the legislative process can be found at:

<http://www.assemblywales.org/bus-home/bus-legislation/bus-legislation-guidance.htm>

When preparing your submission, please keep the following in mind:

- your response should address the issues before the Committee.;
- the National Assembly normally makes responses to public consultation available on its website and responses may also be seen and discussed by Assembly Members at Committee meetings. If you do not want your response or name published, it is important that you clearly specify this in your submission;
- please indicate whether you are responding on behalf of an organisation, or as an individual; and
- please indicate whether or not you would be prepared to give oral evidence to the Committee.

The Committee welcomes contributions in English and Welsh.

If you have any queries, please contact Bethan Davies, Committee Clerk on 029 2089 8120 or Leanne Hatcher, Deputy Clerk on 029 2089 8147.

Yours faithfully

Ann Jones AM
Committee Chair

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Ffacs / Fax: 029 2089 8021
Minicom: 029 2082 3280

E-bost / E-mail: celg.committee@wales.gov.uk

Annex 1

Consultation Questions

1. Is there a need for a Bill to revise and consolidate legislation about the making and enforcement of byelaws? Please explain your answer to this question.
2. Do you think the Bill 'will serve to provide for local authority [and some environmental] byelaws to become a more effective regulatory mechanism' (as stated in paragraph 3.16 of the Explanatory Memorandum)?
3. Are the sections of the Bill appropriate in terms of reforming existing laws relating to byelaws? If not, how does the Bill need to change?
4. (a) How will the Bill change the current approach to byelaws and what impact will such changes have, if any?
(b) In particular, does the Bill achieve its aim of seeking to streamline the procedures for making byelaws (primarily by removing the requirement for confirmation by the Welsh Ministers of specified new byelaws)?
5. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?
6. What are your views on the procedures for making byelaws (sections 6 to 9)?
7. Are the consultation provisions outlined in the Bill satisfactory in terms of ensuring appropriate consultation takes place prior to revoking, amending, making or confirming byelaws (sections 4 to 8)?
7. (a) Are you content with the enforcement provisions in the Bill (sections 10 to 15)?
(b) In particular, do you have any observations on the seizure proposals in section 11, and the penalties proposed in sections 10(2) and 14(3)?

Financial Implications

8. What are the financial implications of the Bill, if any? In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.

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Ffacs / Fax: 029 2089 8021
Minicom: 029 2082 3280

E-bost / E-mail: ceig.committee@wales.gov.uk

9. Are there any other comments you wish to make about specific sections of the Bill?

Subordinate Legislation

10. What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e statutory instruments including regulations and orders)?
11. Do you have any observations on whether the subjects referred to in the Schedules are, in fact, appropriate to be regulated by byelaws?

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Response to Consultation Questions Listed in Annex 1

Q1. Is there a need for a Bill to revise and consolidate legislation about the making and enforcement of byelaws? Please explain your answer to this question.

A1. **Yes to simplifying and consolidate the existing processes.**

Q2. Do you think the Bill 'will serve to provide for local authority [and some environmental] byelaws to become a more effective regulatory mechanism' (as stated in paragraph 3.16 of the Explanatory Memorandum)?

A2. **Yes, particularly for those where fixed penalties can be imposed.**

Q3. Are the sections of the Bill appropriate in terms of reforming existing laws relating to byelaws? If not, how does the Bill need to change?

A3. **Yes.**

Q4. a) How will the Bill change the current approach to byelaws and what impact will such changes have, if any?

b) In particular, does the Bill achieve its aim of seeking to streamline the procedures for making byelaws (primarily by removing the requirement for confirmation by the Welsh Ministers of specified new byelaws)?

A4. a) **It is likely to lead to an increase in the number of bye-laws that local authorities pass, particularly in the first year after the new provisions come into effect. Existing bye-laws may be revoked and replaced by more up-to-date bye-laws and where permitted having the ability to impose fixed penalties.**

b) **Yes.**

Q5. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

A5. **None**

Q6. What are your views on the procedures for making byelaws (sections 6 to 9)?

A6. **Satisfactory**

- Q7. Are the consultation provisions outlined in the Bill satisfactory in terms of ensuring appropriate consultation takes place prior to revoking, amending, making or confirming byelaws (sections 4 to 8)?
- A7. **Yes.**
- Q7. a) Are you content with the enforcement provisions in the Bill (sections 10 to 15)?
b) In particular, do you have any observations on the seizure proposals in section 11, and the penalties proposed in sections 10(2) and 14(3)?
- A7. a) **Yes**
b) **No observations.**
- Q8. What are the financial implications of the Bill, if any? In answering this question you may wish to consider Part 2 of the Explanatory Memorandum *the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.
- A8. **As the procedures are likely to lead to more byelaws being passed, there is likely to be an increase in workload for local authorities beyond that which would be recovered through income from fixed penalty notices.**
- Q9. Are there any other comments you wish to make about specific sections of the Bill?
- A9. **No**
- Q10. What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments including regulations and orders)?
- A10. **No view**
- Q11. Do you have any observations on whether the subjects referred to in the Schedules are, in fact, appropriate to be regulated by byelaws?
- A11. **Yes, they are appropriate.**