

**CYNGOR SIR POWYS COUNTY COUNCIL.**

**CABINET EXECUTIVE**

**26<sup>th</sup> January 2021**

**REPORT AUTHOR:** County Councillor Graham Breeze  
Portfolio Holder for Corporate Governance, Engagement  
and Regulatory Services

**REPORT TITLE:** PCC Consultation Response to Draft Statutory Guidance  
on Part 6, Chapter 1 of the Local Government and  
Elections (Wales) Bill (Performance and Governance of  
Principal Councils)

---

**REPORT FOR:** Decision

---

**1. Purpose**

1.1 The purpose of this report is to provide Cabinet with an overview of the new performance and governance duties that will be introduced under Part 6, Chapter 1 of the Local Government and Elections (Wales) Bill.

1.2 The report also sets out details of the consultation in relation to the **Draft Statutory Guidance** on Part 6 of the Bill, and seeks Cabinet approval for a corporate response that has been drafted on behalf of the council (see Appendix A).

**2 Background**

2.1 The Local Government and Elections (Wales) Bill (The Bill) is a substantial piece of legislation covering electoral reform, public participation, governance and performance and regional working. This report focuses specifically on the Performance and Governance duty.

2.2 The Bill was introduced in 2019 and passed by the Senedd on 18th November 2020. It is anticipated the Bill will receive Royal Assent early in 2021.

2.3 The Bill will replace the current improvement duty for principal councils set out in the Local Government (Wales) Measure 2009. The new approach as set out in the Bill is designed to be a more streamlined, flexible and provide a sector-led approach to performance, good governance and improvement. The intention is for councils to be proactive in considering how internal processes and procedures should change to enable more effective planning, delivery and decision-making to drive better outcomes.

2.4 In order for Cabinet to understand the impact of the core duties under the new Bill, Appendix B sets out a comparison between the current duties under existing 'improvement' legislation, and the new duties that will be introduced as part of the Bill. Appendix B also sets out the processes and procedures the council has in place to meet current legislative duties with regards performance and governance. Overall, the comparison reveals that the new duties are similar to those the council has been subject to under the 2009 Measure and Well-being of Future Generations (Wales) Act, therefore we do not anticipate significant changes to the council's existing Strategic Planning and Performance Management Cycle.

### **3. Overview of the Draft Statutory Guidance (Performance and governance of principal councils)**

#### **Purpose:**

3.1 The performance and governance provisions contained in Part 6 of the Bill will require councils to review the extent to which they are meeting their performance requirements. The purpose of the performance and governance provisions in the Bill is to support a culture in which councils actively seek and embrace challenge, whether presented from within the council, for example through scrutiny procedures, or externally. The provisions are designed to provide a framework which supports councils, through an ongoing process of review, to think about their performance and effectiveness now and for the future; to encourage more inquisitive organisations willing to challenge themselves to do more, to be more innovative and more ambitious in what they do.

3.2 The provisions in the Bill are framed within the wider sustainable development duties of the Well-being of Future Generations (Wales) Act 2015, which sets out a legally binding common purpose for the public bodies subject to that Act to improve the social, economic, environmental and cultural well-being of Wales. It sets out seven well-being goals which these public bodies must work towards collectively and five ways of working to guide how public bodies should deliver.

#### **The main duties:**

3.3 The draft guidance specifically addresses the following duties to be placed on principal councils:

#### **3.4 Duty to keep performance under review**

The Bill requires a council to keep under review the extent to which it is fulfilling the 'performance requirements':

- exercising its functions effectively;
- using its resources economically, efficiently and effectively; and
- has effective governance in place for securing the above.

#### **3.5 Duty to consult on performance**

A council must consult a range of people at least once in each financial year about the extent to which the council is meeting the performance requirements. The statutory consultees are:

- local people;
- other persons carrying on a business in the council's area;
- the staff of the council; and
- every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 92)) by the council.

### **3.6 Duty to report on performance**

A council must produce a self-assessment report in respect of each financial year. The report must set out its conclusions on the extent to which it met the performance requirements during that year, and any actions it intends to take, or has already taken, to increase the extent to which it is meeting the performance requirements.

### **3.7 Duty to arrange a panel assessment of performance**

A council must arrange for a panel to undertake an assessment, at least once during the period between two consecutive ordinary elections of councillors to the council, of the extent to which the council is meeting its performance requirements.

### **3.8 Duty to respond to a panel performance assessment report**

A council must prepare a response to each panel performance assessment report, setting out the extent to which it accepts the conclusions in the report, the extent to which it intends to follow any recommendation in the report, and any actions the council intends to take to increase the extent to which it is meeting the performance requirements.

### **3.9 Other Provisions**

There are other provisions within Part 6 of the Bill such as powers for the Auditor General for Wales to carry out special inspections of a council; powers for the Welsh Ministers to provide support and assistance to a council with a view to improving its performance; and powers for the Welsh Ministers to intervene in a council which is not, or may not be, meeting the performance requirements.

### **Timelines for implementation of the duties:**

- The new guidance will apply from April 2021, with exception of Panel Performance Assessment which will come into force after the next elections in May 2022.
- The first Self-Assessment Report will need to be prepared on the 2021-22 financial year and published early in the 2022-23 financial year.
- Council's will continue to report under the Local Government Measure 2009 for the 2020-21 financial year and the Annual Performance Report will need to be published no later than October 2021.

## **4. Advice**

4.1 As mentioned above, Appendix B demonstrates that the council's current Strategic Planning and Performance management cycle already ensures that the council has procedures in place to meet the majority of the duties in the new Bill, with the exception of the Panel Performance Assessment. It is therefore proposed that the Council strengthens its current procedures, such as the Integrated Business Planning process, rather than introducing any new processes.

4.2 Currently it is proposed that the Council undertakes its First Panel Performance Assessment mid-way through the next electoral cycle, however detailed plans will be drawn up early in the 2021-22 Financial year.

4.3 The cabinet will also be aware of the introduction of the Socio-Economic Duty on 31<sup>st</sup> March 2021, and it is advised that this duty is also strengthened through the council's Integrated Business Planning and decision making processes. This duty will require principal councils, when taking strategic decisions such as 'deciding priorities and setting objectives', to consider how their decisions might help to reduce the inequalities associated with socioeconomic disadvantage - driving better outcomes on people's lives and experiences through better decision making and further contributing towards our shared goal of becoming "a more equal Wales".

4.4 Welsh Government launched Consultation on the Draft Guidance (Performance and Governance of local authorities) on 11<sup>th</sup> November 2020, and the deadline for responses is 3<sup>rd</sup> January. It is advised that the Council takes the opportunity to provide a corporate response to the consultation, in order to provide views on the proposed duties in the guidance. A draft response is attached at Appendix A for cabinet consideration. Members of scrutiny have also been given the opportunity to comment and feed into the corporate response.

## **5. Resource Implications**

5.1 There is a cost to a Local Authority for holding statutory peer assessments. The council is responsible for identifying panel assessors, commissioning the panel to undertake the assessment, and meeting any associated costs. At this time the actual costs are unknown. It is anticipated that a peer assessment will require significant officer resource in order to facilitate the process.

## **6. Legal implications**

6.1 Legal:

6.2 The Head of Legal and Democratic Services (Monitoring Officer) has commented as follows:

**7. Comment from local member(s)**

7.1 N/A

**8. Integrated Impact Assessment**

8.1

**9. Recommendation**

**9.1 It is recommended that Cabinet note the new Performance and Governance duties being introduced by Part 6, Chapter 1 of the Bill and approve the advice around strengthening current arrangements to implement the duties, rather than introducing new processes.**

**9.2 It is also recommended that Cabinet consider and approve the draft consultation response at Appendix A, for submission to WG by the deadline of 3<sup>rd</sup> February.**

9.3 The recommendations above will ensure the council understand its duties and is fully prepared for implementation of Part 6 of the Local Government and Elections (Wales) Bill, when it comes into force from April 2021 onwards.

Contact Officer: Emma Palmer, Head of Transformation and Communications  
Tel: 01597 826768  
Email: emma.palmer@powys.gov.uk

Head of Service: Emma Palmer, Head of Transformation and Communications

Corporate Director: