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Llywodraeth Cymru  
Welsh Government

Welsh Government  
Consultation Document

## Draft statutory guidance - Performance and governance of principal councils

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Action required: Responses by 3 February 2021

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
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## Consultation Response Form

Your name:

Organisation (if applicable):

E-mail / telephone number:

Your address:

**Q1:** Does the draft guidance make it clear what is expected of principal councils as set out in the provisions of Part 6 of the Local Government and Elections (Wales) Bill in a way that can be understood by principal councils?

If not, why not?

Overall, the council agrees that the draft guidance is easy to understand and provides a balance of prescription and flexibility, in which principal councils can use to implement the provisions of Part 6 of the Bill in a way that compliments their existing planning, performance and governance frameworks. The guidance is well structured around the five main duties of the Bill.

Chapter 1 provides the policy context and purpose of the new regime, specifically making reference to the Well-being of Future Generations (Wales) Act; however, we feel that there would be value in clearly explaining the difference between the two pieces of legislation and how WG feels that the new regime will 'add value' to existing legislation requirements which principal councils are subject to. For example, since the introduction of the Well-being Act, it was made clear to principal councils that this Act essentially took over the requirements of the Local Government Measure 2009, but now a new regime is being introduced which potentially duplicates the Well-being Act and replicates the 2009 measure. If this is not the case, then the draft guidance should state specifically that it does not cause duplication and the reasons why.

**Q2:** Does Chapter 2 of the guidance set out the performance requirements and the duty to keep performance under review sufficiently clearly?

If not, what would you add or change?

Overall, the council believes that Chapter 2 of the draft guidance provides a clear step by step approach, of what is expected of principal councils when keeping their performance under review. However, we believe that there would be value in providing a definition under section 2.4. for exactly what is meant by the term 'Functions'. The reason for needing this definition is to provide more clarity on the expectations of principal councils when developing their Self-Assessment Reports. For example, under the Local Government Wales Measure 2009, councils had to set 'Improvement Objectives' annually, and their self-assessment report was based on progress towards these. However, the draft guidance for the new Bill is not clear around the level of reporting – are councils expected to report on **all of**

their 'functions' or is there flexibility in terms of what they choose to report on? If the latter is the case, then this opens up the Reporting to significant gaps in terms of transparency.

Chapter 2.8 does state that the report is a corporate, organisational assessment, rather than an assessment of individual services, however in order to reach a corporate judgment, some lower level assessment of individual services will be required.

The guidance also needs clarity on how this will align to Part 8 of the Social Services and Well-Being Act, the Director's Report, which is a strategic self-assessment of the previous year with legislated headings. There needs to be clear consideration of how these self-assessments will align to minimise duplication, and if going to a Service area level, how other Services follow the same methodology in self-assessment.

**Q3:** Does Chapter 2 of the guidance explain how a council could meet the requirement to undertake self-assessment in order to fulfil its duties?

If not, what would you add or change?

It is useful that the draft guidance lists the potential sources of evidence that principal councils could use to inform its Self-Assessment Report, however the list just emphasises the fact that councils are already subject to publishing a number of annual reports/ assessments and that this additional requirement (under the new Bill) potentially adds another corporate layer, which challenges principal councils to bring together all the reporting requirements placed upon us, by the raft of individual legislative duties.

Most councils already have a quarterly performance reporting framework in place by means of best practice – wouldn't there be more value in supporting councils to improve this self-assessment/reporting cycle, rather than adding to the **annual** reporting requirements?

The draft guidance currently isn't clear on who the audience of the Self-Assessment Report would be. Does the WG have an understanding of public appetite for these reports and would they consider it to be value for money? Similarly, does the WG have an understanding of public awareness of the current reports that are produced, and do they believe that the public would welcome being involved in public engagement around principal councils performance? We welcome the suggestion for framing self-assessment around the seven corporate areas for change in the Well-being Act, but are also aware that this is not something new and many councils already do this as part of their current annual reporting, together with an assessment of CIPFA core principles in their Annual Governance Statement.

**Q4:** Does Chapter 3 of the guidance make the minimum requirements for principal councils to arrange and respond to a panel performance assessment clear, as well as provide sufficient flexibility for each council to determine its own approach?

If not, what would you add or change?

Overall, the council believes that Chapter 3 of the draft guidance provides clear expectation on principal councils in relation Panel Performance Assessments. However, given the financial burden currently placed on councils, it is questionable whether this is a meaningful use of resources and whether there is a need for such statutory intervention.

Similarly, what added value would a Panel Performance Assessment bring, that Auditors aren't currently doing?

In terms of panel membership and regularity, how will this align to section 8 of the SSWBA act and RISCA regulations, which support the creation of boards with external appointees to drive improvement such as the previous function of the Improvement and Assurance Board in Powys, and panels now being utilised in other local authorities such as Wrexham and Methyr Tydfil, which would potentially have an overlapping function and membership in terms of requiring regular self-evaluation, performance monitoring and external challenge to drive improvement.

As stated in question 3 above, we believe that there would be more value in supporting councils to improve their quarterly self-assessment approach rather than bringing in another layer of external, independent assessment.

Currently the statutory requirement to arrange and respond to a Panel Assessment puts all the administrative duties on a local authority.

In our view, for Panel Assessments to be truly effective they would need to happen twice in every electoral cycle (i.e. an initial assessment and a follow up visit/assessment). This is the approach the council took recently where it took the initiative to commission its own independent assessment. Which in itself is evidence that councils are taking this approach without making it a statutory duty.

**Q5:** Chapter 4 outlines the Auditor General for Wales' powers to carry out a special inspection, and the duties of principal councils and Welsh Ministers to respond to any recommendations.

Chapter 5 describes the powers and duties for both Welsh Ministers and councils in relation to supporting and assisting with improving performance; and powers for intervention by Welsh Ministers.

Do Chapters 4 and 5 sufficiently describe and explain these powers?

If not, what would you add or change?

Overall, the council would agree that Chapters 4 and 5, provide sufficient clarity on the different powers and expectations on principal councils.

**Q6:** We would like to know your views on the effects that the guidance would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Organisations would be expected to undertake this work in accordance with the requirements of the Welsh language Standards, and therefore provide opportunities to use Welsh, and not treat the Welsh language less favourably than English.

However, there is no reference in the document to providing opportunities to use Welsh during engagement, or to offering opportunities to engage in people's language of choice. Providing this reference, and ensuring those opportunities are given to stakeholders would help in ensuring greater balance to the feedback.

**Q7:** Please also explain how you believe the guidance could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language, and on treating the Welsh language no less favourably than the English language, and ensure there are no adverse effects on opportunities for people to use the Welsh language.

The guidance could have a greater reference to the Welsh language and the requirements of the Welsh Language (Wales) Measure 2011, as well as the well-being goal of achieving a Wales of vibrant culture and thriving Welsh language. Recommending that panels reflect the linguistic profile of communities, and conducting sessions in Welsh could ensure greater participation, broader views, and greater balance to the feedback received.

**Q8:** We have asked a number of specific questions on the draft guidance. If you have any related issues which we have not specifically addressed, please enter here.

