



Local Government and Elections (Wales) Act 2021

3 March 2021

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Overview

- Summary of the Act
- General Power of Competence
- Promoting Access to Local Government
- Collaborative Working

Local Government and Elections (Wales) Act 2021

- Aim: to provide local government with new ways to support and serve their local communities
- Local Government reform

Local Government and Elections (Wales) Act 2021

- Part 1: Elections
- Part 2: General Power of Competence
- Part 3: Promoting Access to Local Government
- Part 4: Local Authority Executives, Members, Offices and Committees

Local Government and Elections (Wales) Act 2021

- Part 5: Collaborative Working by Principal Councils
- Part 6: Performance and Governance of Principal Councils
- Part 7: Mergers and Restructuring of Principal Areas
- Part 8: Local Government Finance
- Part 9: Miscellaneous
- Part 10: General

Statutory Powers

- Sources of statutory powers
- Section 2 LGA 2000 – *to do anything which they consider is likely to promote or improve: the economic, social or environmental well-being of their area*
- *Brent London Borough Council v Risk Management Partners Ltd [2009] EWCA Civ 490*

General Power of Competence – S.24

(1) A qualifying local authority has power to do anything that individuals generally may do, even if that thing is, in nature or extent or otherwise –

(a) unlike anything a qualifying local authority may do apart from this section;

(b) unlike anything that other public bodies may do.

General Power of Competence – S.24

(2) Where subsection (1) confers power on an authority to do something, it confers power to do it in any way whatsoever, including –

(a) power to do it anywhere in Wales or elsewhere;

(b) power to do it for a commercial purpose or otherwise free of charge;

(c) power to do it for, otherwise than for, the benefit of the authority, its own area or persons resident or present in its area

General Power of Competence - Limitations

- Cannot be used to bypass prohibitions
- Cannot be used to delegate or contract out functions or alter governance arrangements
- Limits on charging
- Commercial purpose

General Power of Competence

- Section 1 Localism Act 2011 – e.g. *Peters v London Borough of Haringey and another* [2018] EWHC 192 (Admin)
- Public law principles

Promoting Access to Local Government

- Principal Council Duty to encourage local people to participate in decision-making
- Must publish public participation strategy
- Must consult on and keep strategy under review

Public Participation Strategy

- Must address
 - Promoting awareness of council's functions
 - Promoting awareness of how to become a councillor
 - Facilitating access to decisions made or to be made
 - Promoting and facilitating processes for local people to make representations to the council about a decision

Public Participation Strategy

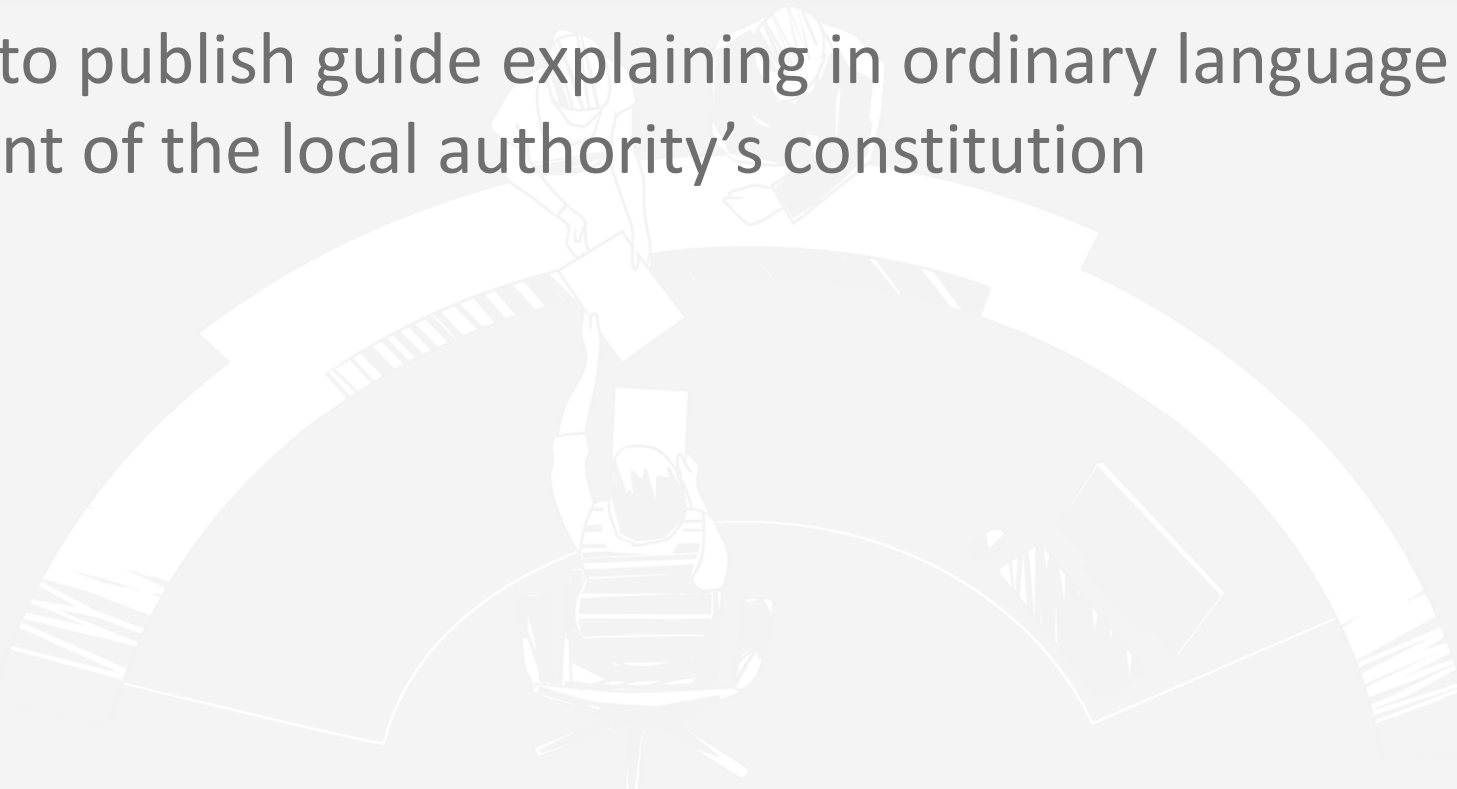
- Arrangements for bringing views of the public to attention of overview and scrutiny committees
- Promoting awareness among councillors of benefits of using social media

Public Participation

- Duty to publish petition scheme
- Duty to publish electronic and postal address for each councillor
- Must have regard to guidance from Welsh Ministers

Constitution Guides

- Duty to publish guide explaining in ordinary language the content of the local authority's constitution



Local Authority Meetings

- Must make arrangements for broadcast of meetings
 - As they take place
 - Available after meetings



Remote attendance at meetings

- Local Authorities (Coronavirus) (Meetings) (Wales) Regulations 2020
 - Provides for remote attendance at meetings before 1 May 2021
- Association of Democratic Services Officers and Lawyers in Local Government seeking declaration that existing legislation allows remote attendance

Remote attendance at meetings

- Local authority must make arrangements for remote attendance at meetings
- Must enable persons attending to speak to and be heard by each other
- If meeting must be broadcast must enable persons attending to see and be seen by each other
- Provision for public access

Practical Issues

- Technical Issues
 - Information on available platforms
 - Sharing experiences
- Confidentiality
- Conduct



Collaborative Working

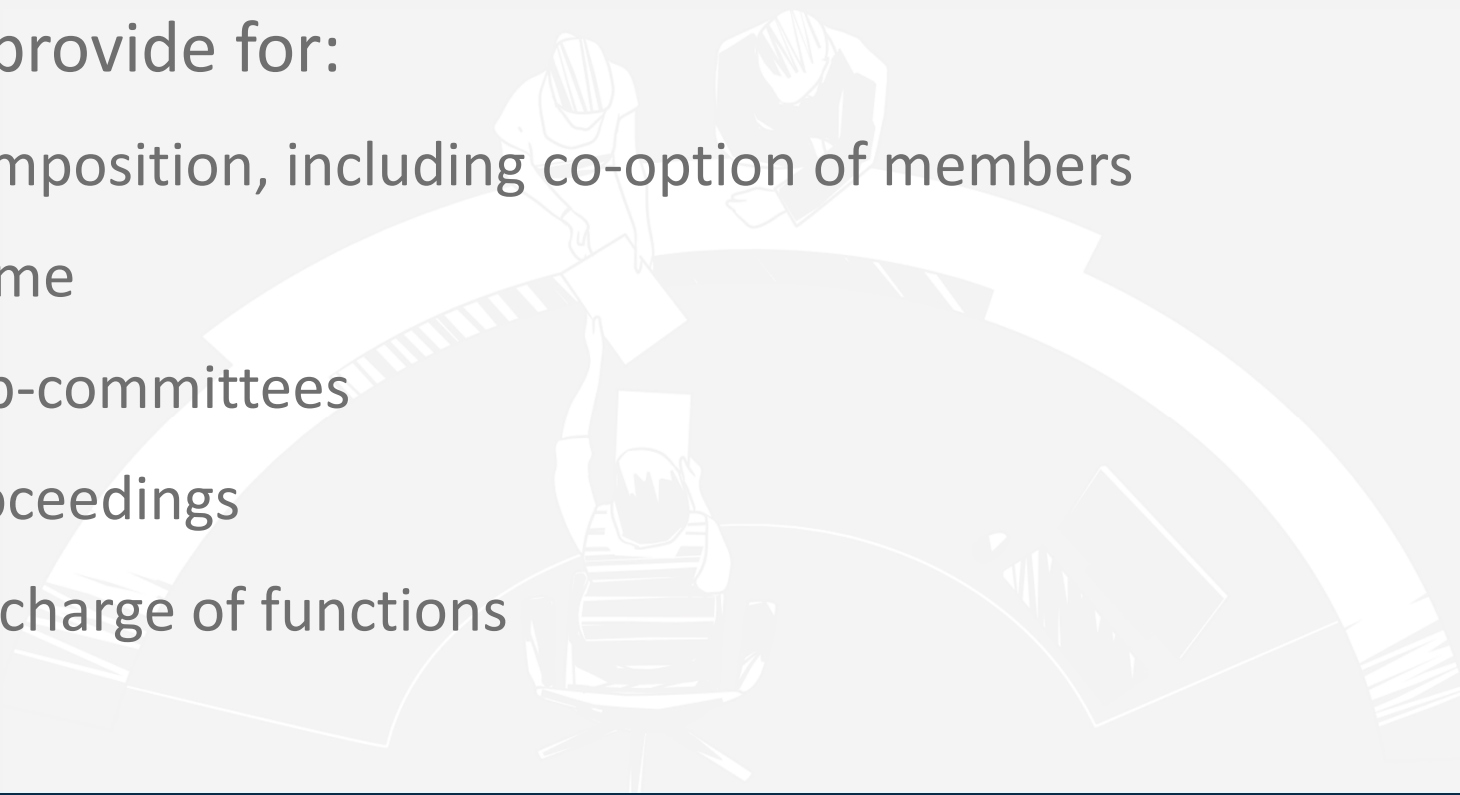
- Power for principal councils to apply to Welsh Ministers for regulations to establish corporate joint committees
- Councils must carry out consultation before making regulations
- Welsh Ministers must consult on draft regulations

Joint Committee Regulations

- Must provide for senior executive members of councils to be members of the committee
- If joint committee will be responsible for preparing strategic development plan, must provide for membership from relevant national park authority

Joint Committee Regulations

- May provide for:
 - Composition, including co-option of members
 - Name
 - Sub-committees
 - Proceedings
 - Discharge of functions



Joint Committee Regulations

- May provide for:
 - Power to provide staff, goods, services or accommodation
 - Remuneration for members
 - Funding
 - Power to act for a commercial purpose
 - Performance and scrutiny

Joint Committee Regulations

- May provide for:
 - Acquisition, appropriation or disposal of property
 - Participation in legal proceedings
 - Incidental powers
 - Powers of Welsh Ministers to give directions

Joint Committees where no request has been made

- Power of Welsh Ministers to make regulations for joint committees to exercise functions of: improving education; transport; strategic development plan; economic well-being
- Must carry out consultation and give notice
- Consultation on establishing four regional corporate joint committees

Any questions



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