

## 1. Local Government and Elections (Wales) Bill.

Local Government Measure 2011	Local Government and Elections (Wales) Bill
AUDIT COMMITTEES	
<p>81 Local authorities to appoint audit committees</p> <p>(1) A local authority must appoint a committee (an “audit committee”) to—</p> <p>(a) review and scrutinise the authority's financial affairs,</p> <p>(b) make reports and recommendations in relation to the authority's financial affairs,</p> <p>(c) review and assess the risk management, internal control and corporate governance arrangements of the authority,</p> <p>(d) make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements,</p> <p>(e) oversee the authority's internal and external audit arrangements, and</p> <p>(f) review the financial statements prepared by the authority.</p> <p>(2) A local authority may confer on its audit committee such other functions as the authority considers suitable to be exercised by such a committee.</p> <p>(3) It is for an audit committee to determine how to exercise its functions.</p>	<p><b>114 New name and functions of audit committees</b></p> <p>(1) Section 81 of the 2011 Measure (local authorities to appoint audit committees) is amended as follows.</p> <p>(2) In subsection (1), for “(an “audit committee”)” substitute “(a “governance and audit committee”)”.</p> <p>(3) In paragraph (c) of subsection (1), after “internal control” insert “, performance assessment”.</p> <p>(4) After paragraph (d) of subsection (1) insert— “(da) review and assess the authority’s ability to handle complaints effectively, (db) make reports and recommendations in relation to the authority’s ability to handle complaints effectively,”.</p> <p>(5) After subsection (1) insert— “(1A) See Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2020 (performance and governance of principal councils) for further functions of governance and audit committees. (<b>SEE BELOW</b>)</p> <p>(6) Schedule 9 makes consequential amendments.</p>
<p>82 Membership</p> <p>(1) A local authority is to appoint the members of its audit committee.</p>	<p><b>115 Membership of governance and audit committee</b></p> <p>(1) Section 82 of the 2011 Measure (membership) is amended as follows.</p>

<p>(2) A local authority must secure that—</p> <p>(a) at least two-thirds of the members of its audit committee are members of the authority;</p> <p>(b) at least one member of its audit committee is a lay member;</p> <p>(c) no more than one of the members of its audit committee is a member of the authority's executive;</p> <p>(d) the senior member of its executive is not a member of its audit committee.</p> <p>(3) Subsection (2)(c) does not require the membership of a local authority's audit committee to include a member of the authority's executive.</p> <p>(4) The appointment of a person as a member of an audit committee has no effect if the membership of the committee breaches subsection (2) immediately after the appointment (whether or not by virtue of the appointment).</p> <p>(5) In a case where one or more persons are to become, or to cease to be, members of an audit committee at a particular time, all those changes of membership are to be taken into account in determining whether the membership of the committee breaches subsection (2).</p> <p>(6) An act of an audit committee is invalid if the membership of the committee breaches subsection (2).</p>	<p>(2) In subsection (2)—</p> <p>(a) in paragraph (a) omit the words “at least”;</p> <p>(b) for paragraph (b) substitute— “(b) one-third of the members of that committee are lay persons;”.</p> <p>(3) After subsection (5) insert— “(5A) A governance and audit committee is to appoint—</p> <p>(a) a member of the committee as its chair (“the committee chair”), and</p> <p>(b) a member of the committee as the deputy to the committee chair (“the deputy chair”).</p> <p>(5B) The member appointed as the committee chair must be a lay person.</p> <p>(5C) The member appointed as the deputy chair must not be a member of the local authority’s executive or an assistant to its executive.”</p> <p>(4) Omit subsection (6).</p> <p>(5) In Schedule 9 to this Act (consequential amendments relating to governance and audit committees), omit paragraph 4(b)(ii) and (f).</p>
<p>83 Proceedings etc</p> <p>(1) An audit committee is to appoint the person who is to chair the committee (who may be a member of the authority</p>	<p><b>117 Proceedings etc.</b></p> <p>(1) Section 83 of the 2011 Measure (proceedings) is amended as follows.</p>

or a lay member but who must not be a member of an executive group).

(2) If there are no opposition groups, the person who is to chair the audit committee may be a member of an executive group but must not be a member of the local authority's executive.

(3) All members of an audit committee may vote on any question that falls to be decided by the committee.

(4) An audit committee of a local authority—  
 (a) may require members and officers of the authority to attend before it to answer questions, and  
 (b) may invite other persons to attend meetings of the committee.

(5) It is the duty of any member or officer of a local authority to comply with any requirement imposed under subsection (4)(a).

(6) A person is not obliged by subsection (5) to answer any question which the person would be entitled to refuse to answer in, or for the purposes of, proceedings in a court in England and Wales.

(7) An audit committee is to be treated as a committee of a principal council for the purposes of Part 5A of the Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees).

(8) For the purposes of subsections (1) and (2), the expressions “executive group” and “opposition group” have the same meaning as in section 75.

(2) For subsections (1) and (2) substitute—

“(1) A meeting of a governance and audit committee is to be chaired—

(a) by the committee chair, or

(b) if the committee chair is absent, by the deputy chair.

(2) If both the committee chair and the deputy chair are absent the

committee may appoint a member of the committee who is not a member of the local authority's executive, or an assistant to its executive, to chair the meeting.”

(3) Omit subsection (8).

(4) In Schedule 6 to this Act (assistants to executives), omit paragraph 6(5).

(5) In Schedule 9 to this Act (consequential amendments relating to governance and audit committees), omit paragraph 5(a) and (b).

<p>84 Frequency of meetings</p> <p>(1) An audit committee must meet once in every calendar year.</p> <p>(2) The audit committee of a local authority must also meet if—</p> <p>(a) the local authority resolves that the committee should meet, or</p> <p>(b) at least one-third of the members of the committee requisition a meeting by one or more notices in writing given to the person who chairs the committee.</p> <p>(3) It is the duty of the person who chairs an audit committee to secure that meetings of the committee are held as required by subsections (1) and (2).</p> <p>(4) This section does not prevent an audit committee from meeting otherwise than as required by this section.</p>	
<p>85 Guidance</p> <p>(1) The Welsh Ministers may give guidance to local authorities—</p> <p>(a) about the functions of audit committees and the exercise of those functions, or</p> <p>(b) about the membership of audit committees.</p> <p>(2) A local authority and its audit committee must have regard to guidance given by the Welsh Ministers under subsection (1).</p>	

<p>86 Termination of membership on ceasing to be member of authority</p> <p>(1) This section applies to a person (P) who is—</p> <p>(a) appointed to be a member of an audit committee of a local authority, and</p> <p>(b) is a member of the authority at the time of that appointment.</p> <p>(2) If P ceases to be a member of the authority, P also ceases to be a member of the audit committee.</p> <p>(3) But subsection (2) does not apply if P— (a) ceases to be a member of the authority by reason of retirement, and (b) is re-elected a member of the authority not later than the day of retirement.</p> <p>(4) Subsection (3) is subject to the standing orders of the authority or the audit committee.</p>	
<p>87 Interpretation etc</p> <p>(1) Expressions used in this Chapter and in Part 2 of the Local Government Act 2000 (or in an instrument made under that Part of that Act) have the same meanings in this Chapter as in that Part of that Act (or in that instrument).</p> <p>(2) In this Chapter— “audit committee” (“pwyllgor archwilio”) has the meaning given in section 81; “lay member” (“aelod lleyg”) means a person who is not a member of a local authority; “senior member of a local authority” (“aelod hy^n awdurdod lleol”) means—</p> <p>(a) in the case of a local authority which operates a leader and cabinet executive (Wales), the executive leader;</p>	<p><b>116 Meaning of lay person</b></p> <p>In section 87 of the 2011 Measure (interpretation), in subsection (2) omit the definition of “lay member” and insert—</p> <p>““lay person” (“<i>lleygwr</i>”) means a person who—</p> <p>(a) is not a member or an officer of any local authority,</p> <p>(b) has not at any time in the period of twelve months ending with the date of that person’s appointment been a member or an officer of any local authority, and</p> <p>(c) is not the spouse or civil partner of a member or an officer of any local authority;”.</p>

<p>(b) in the case of a local authority which operates a mayor and cabinet executive, the mayor.</p>	
<p>(3) In the application of this Chapter to a local authority which operates alternative arrangements—  (a) a reference to the executive of the authority is a reference to the board of the authority, and  (b) a reference to the senior member of the authority is a reference to the chair of the board of the authority.</p>	

### **Proposed new functions of the Governance and Audit Committee under Part 6 of the Draft Bill.**

#### **90 Duty of principal council to report on its performance**

(1) A principal council must, in respect of each financial year, make a report setting out its conclusions as to the extent to which it met the performance requirements during that financial year.

(6) The council must make a draft of its self-assessment report available to its governance and audit committee.

(7) The governance and audit committee must review the draft report and may make recommendations for changes to the conclusions, or to anything included by virtue of subsection (3), in the draft.

(8) If the council does not make a change recommended by the governance and audit committee under subsection (7), the council must set out in the report the recommendation and the reasons why it did not make the change.

(9) Before the end of the period of four weeks beginning with the day on which the council makes the report the council must—

(a) publish the report,

(b) make the report available to the council's governance and audit committee, and

(c) send the report to—

(i) the Auditor General for Wales,

(ii) Her Majesty's Chief Inspector of Education and Training in Wales, and

(iii) the Welsh Ministers.

#### **91 Duty of principal council to arrange panel performance assessment**

(1) A principal council must make arrangements so that, at least once during each electoral cycle, a panel appointed by the council assesses the extent to which the council is meeting the performance requirements.

(6) As soon as reasonably practicable after receiving the report from the panel, the council must—

(a) make the report available to the council's governance and audit committee, and

(b) publish the report.

**92 Duty of principal council to respond to report of panel performance assessment**

- (1) A principal council must prepare a response to each report made under section 91(4) in respect of the council.
- (3) The council must make a draft of the response available to its governance and audit committee.
- (4) The governance and audit committee must review the draft response and may make recommendations for changes to the statements made in the draft under subsection (2).
- (5) If the council does not make a change recommended by the governance and audit committee under subsection (4), the council must set out, in the response, the recommendation and the reasons why it did not make the change.

**95 Duty of principal council to respond to Auditor General's recommendations**

- (1) If a report made by the Auditor General under section 94(6) contains recommendations under section 94(6)(b) for action to be taken by a principal council, the council must prepare a response to the recommendations.
- (3) The council must make a draft of the response available to its governance and audit committee.
- (4) The governance and audit committee must review the draft response and may make recommendations for changes to the statement made in the draft under subsection (2).
- (5) If the council does not make a change recommended by the governance and audit committee under subsection (4), the council must set out, in the response, the recommendation and the reasons why it did not make the change.

**Explanatory Memorandum.**

## Governance and Audit Committees

3.175 The White Paper 'Power to Local People' made a number of proposals for strengthening the internal governance and accountability arrangements in principal councils as a consequence of removing councils from the improvement regime in Part 1 of the 2009 Measure. A key proposal was to clarify and strengthen the role of principal council audit committees, given the proposal to increase their functions significantly.

3.176 Provisions in the Bill amend the 2011 Measure to change the name of the audit committee to the governance and audit committee to reflect this broader role; set out the new functions of the committee and amend the rules relating to the membership and proceedings of the committee.