

# Comparison of local authority’s current corporate governance, planning and reporting duties, against the duties set out in the upcoming Local Government and Elections Wales Bill.

(Based on Draft statutory guidance: Performance and governance of principal councils December 2020)

CORE DUTIES	CURRENT LEGISLATION		NEW LEGISLATION	How is the council meeting its current planning and reporting duties?
	Local Government (Wales) Measure 2009 <i>TO BE REPEALED BY THE Local Government and Elections (Wales) Bill</i>	Wellbeing of Future Generations (Wales) Act 2015	Local Government and Elections (Wales) Bill – Part 6, Performance and Governance of principal Councils’	
<b>Overview</b>	<p>A Welsh improvement authority must make arrangements to secure continuous improvement in the exercise of its functions.</p> <p>An authority must have regard in particular to the need to improve the exercise of its functions in terms of—</p> <ul style="list-style-type: none"> <li>(a)strategic effectiveness;</li> <li>(b)service quality;</li> <li>(c)service availability;</li> <li>(d)fairness;</li> <li>(e)sustainability;</li> <li>(f)efficiency; and</li> <li>(g)innovation.</li> </ul>	<p><b>Local Authority:</b> The Act places a duty on each public body to carry out sustainable development. Sustainable Development is defined as a process of improving the economic, social, environmental and cultural well-being of Wales. This needs to be done by taking action in accordance with the sustainable development principle so that the well-being goals are achieved.</p> <p>You must (in carrying out sustainable development)</p> <ul style="list-style-type: none"> <li>Set and publish well-being objectives (s.3(2)(a))</li> <li>Take all reasonable steps to meet those objectives (s.3(2)(b))</li> <li>Publish a statement about well-being objectives (s.7(1))</li> <li>Publish an annual report of progress (s.13(1) and Sch.1)</li> <li>Publish your response to a recommendation made by the Future Generations Commissioner for Wales (s.22(4))</li> </ul> <p><b>Public Services Boards:</b> The Act establishes a statutory board, known as a public services board, in each local authority area in Wales. PSB’s must</p> <p>a) assess the state of economic, social, environmental and cultural well-being in their areas; (b) set local objectives that are designed to maximise their contribution within their areas to achieving the goals; (c) the taking of all reasonable steps by statutory members of boards (in exercising their functions) to meet those objectives.</p>	<ul style="list-style-type: none"> <li>Duty of principal council to keep its performance under review <ul style="list-style-type: none"> <li>A principal council must keep under review the extent to which: <ul style="list-style-type: none"> <li>it is exercising its functions effectively,</li> <li>it is using its resources economically, efficiently and effectively, and</li> <li>its governance is effective for securing the above</li> </ul> </li> </ul> </li> <li>Duty to consult local people etc. on performance</li> <li>Duty of principal council to report on its performance</li> <li>Duty of principal council to arrange panel performance assessment</li> <li>Duty of principal council to respond to report of panel performance assessment</li> <li>Duty of principal council to respond to Auditor General’s recommendations</li> </ul>	See specific sections below.
<b>Setting Objectives</b>	<p style="text-align: center;">✓</p> <p><b>Improvement Objectives</b> to be set annually.</p>	<p style="text-align: center;">✓</p> <p><b>Well-being objectives</b> to be set and reviewed annually.</p> <p><b>PSB</b> sets well-being objectives and steps to meet them, following an in depth Well-being Assessment..</p>	<p style="text-align: center;">✗</p> <p>No specific duty to set objectives, but as part of the duty to report on performance, there is a requirement for the council to <b>set out any actions</b> it intends to take to increase the extent to which it is meeting the performance requirements.</p>	<b>Well-being / Improvement Objectives:</b> The council’s current Well-being objectives are published in Vision 2025: Our Corporate Improvement Plan. Its well-being objectives are also its Improvement Objectives.
<b>Publish Corporate</b>	<p style="text-align: center;">✓</p>	<p style="text-align: center;">✓</p>	<p style="text-align: center;">✓</p>	<b>Vision 2025-Our CIP:</b> The council updates and publishes its Corporate

Plans/ Strategies/ Statements	<p><b>Improvement Plan</b> – ‘Towards the beginning of each financial year each local authority is obliged to publish its forward looking improvement plan outlining how it proposes to discharge its general duty and to meet its improvement objectives for the next 12 months or longer.’</p>	<p><b>Public bodies</b> must publish a <b>Well-being Statement</b> about their well-being objectives at the same time that they publish their well-being objectives. To avoid duplication, both requirements should be contained in the Corporate Plan (or similar document). The statement must contain a number of elements set out in the guidance.</p> <p>Each <b>Public Services Board</b> must prepare and publish a local <b>Well-being plan</b> setting out its local objectives and the steps it proposes to take to meet them. Must be published no later than 12 months after each subsequent ordinary election.</p>	<p>Through an annual self-assessment the council will identify areas for action to increase the extent to which it is meeting the performance requirements, and <b>put in place a plan</b> to ensure this is undertaken. The self-assessment should be considered the start of the process, not an end in itself. The <b>conclusions may, for example, inform the corporate, well-being objectives or delivery plans or scrutiny work plans as appropriate</b></p> <p>Ensuring sustainability of services for the long term should be at the heart of the actions. This may involve looking to the long-term on future trends, risks and opportunities, considering alternative ways of delivering services such as use of digital technologies, or collaborating with other public and third sector bodies.</p>	<p>Improvement Plan Annually, which includes the well-being objectives statement and steps it will take to meet them.</p> <p><b>Integrated Business Plans:</b> Each service develops an Integrated Business Plan annually to show how the objectives in the CIP will be delivered. The IBP’s also set out other objectives that services are delivering to re-design or improve their service.</p> <p><b>Towards 2040 – Well-being Plan:</b> The council’s own objectives are aligned to relevant Steps in the PSB Well-being Plan called Towards 2040. The council currently leads on Steps 1, 4, 6, 9, 10.</p> <p><b>Medium Term Financial Strategy:</b> As part of its Strategic Planning, the council also publishes a Medium Term Financial Strategy.</p>
Consultation/ Engagement	✓	<p>✓</p> <p>Duty to consult on Well-being Assessment and setting of Well-being objectives.</p>	<p>✓</p> <p><b>Duty to Consult on Performance:</b> 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:-</p> <ul style="list-style-type: none"> <li>• local people</li> <li>• other persons carrying on a business in the council’s area</li> <li>• the staff of the council</li> <li>• every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 92)) by the council.</li> </ul>	<p>Each year, the council undertakes a number of engagement and consultation exercises to inform key strategic decisions aligned to the well-being objectives in Vision 2025.</p> <p>The council plays a key role in the consultation on the Well-being Assessment and PSB Well-being Objectives/ Steps.</p>
Annual Reports/ Self Assessments	✓	<p>✓</p> <p>Each public body is required to report on the progress it has made in meeting its well-being objectives for the preceding financial year. <b>Annual Reports</b> must be published as soon as possible, but no later than 31 March. The Act does not state the structure and content for annual report, but in preparing the report public bodies must review their well-being objectives.</p> <p><b>PSB is required to publish an Annual Report</b> on progress against its Wellbeing objectives.</p> <p><i>Amendment of the Well-being of Future Generations (Wales) Act 2015 In paragraph 1 of Schedule 1 to the Well-being of Future Generations (Wales) Act 2015 (anaw 2), after sub-paragraph (2) insert— “(2A) In</i></p>	<p>✓</p> <p><b>Duty to report on performance</b> - A council must produce a <b>self-assessment report</b> 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.</p> <p>Although the council is required to make and publish a self-assessment report once in respect of every financial year, it is for the council to determine when exactly to do this to best align with its own corporate arrangements. However, the report must be made as soon as reasonably practicable after the financial year to which it relates.</p>	<p><b>Quarterly Performance Reports:</b> The reports present a summary of the Council’s performance on a quarterly basis within the financial year, providing Cabinet with an opportunity to review performance, consider any emerging issues, and direct any remedial actions considered necessary.</p> <p><b>Council Annual Performance Report:</b> Information collated through the quarterly reports is used to develop the Annual Performance Report which is published no later than 31<sup>st</sup> October each year.</p> <p><b>PSB Annual Well-being Report:</b> The Council leads on developing the PSB statutory annual report.</p> <p><b>Integrated Business Plans:</b> All services carry out an annual self-assessment of</p>

		<i>respect of any financial year, a local authority may publish its report under this paragraph and its report under section 91(1) of the Local Government and Elections (Wales) Act 2021 (self-assessment of performance) in the same document.”</i>		performance, workforce and finance as part of reviewing their plans.  The Council also publishes: <b>Director or Social Services Annual Report, Welsh Language Standards Annual Report and Strategic Equality Plan Annual Report.</b> From 2020 onwards the report on Strategic Equality Objectives will be integrated into the Annual Performance Report for our CIP (Well-being objectives).  An <b>Annual Governance Statement</b> is also published annually to set out effectiveness of the council’s governance arrangements.
<b>Scrutiny</b>	✓  There is a clear role for an authority’s scrutiny function in its improvement processes: as part of its role in holding local decision makers and policy makers to account, and in its policy development role. This should extend to: <ul style="list-style-type: none"> <li>• scrutiny of the processes that an authority has gone through in the discharge of the general duty to improve;</li> <li>• scrutiny of the fitness of the organisation to discharge the general duty to improve;</li> <li>• scrutiny of the processes that the authority has gone through in the selection of its improvement objectives, including a review of the level of engagement with stakeholders;</li> <li>• scrutiny of the monitoring of the progress of the delivery of the authority’s improvement objectives;</li> <li>• promoting innovation by challenging the status quo and encourage different ways of thinking and options for delivery.</li> </ul>	✓  <b>Overview and Scrutiny committee is a statutory consultee for PSBs</b>  <b>Role to review both council’s and PSB’s wellbeing objectives</b> (S35 – a specific power to do the latter).	✓  Scrutiny is a key part of offering constructive challenge to how a council is performing and how it organises itself in the delivery of sustainable services. The council should determine how best to involve their scrutiny committee in the self-assessment of the extent to which the council is meeting the performance requirements.  The council must make a draft of its self-assessment report available to its governance and audit committee. The committee must review the draft report and may make recommendations for changes to the conclusions or action the council intends to take. If the council does not make a change recommended by the governance and audit committee, it must set out in the final self-assessment report the recommendation and the reasons why the council did not make the change.  The council must make a draft of its response to the panel performance assessment available to its governance and audit committee, which must then review the draft response and may make recommendations for changes to the response to the panel assessment.	Scrutiny are involved in the development of all the following plans/ reports: <ul style="list-style-type: none"> <li>• Vision 2025: Our CIP</li> <li>• Quarterly Performance Reports</li> <li>• Annual Performance Reports</li> </ul>
<b>Audit/ Inspection</b>	✓  a) Annual audit by WAO with regards discharge of duties and following of guidance b) Annual assessment of improvement plan and performance report (Annual Improvement Report published by WAO)	✓  Reviews by SD Commissioner: <u>Power</u> to conduct a review into how public bodies are applying the well-being duty including: <ul style="list-style-type: none"> <li>• steps taken or proposed to meet well-being objectives;</li> </ul>	✓  If the Auditor General for Wales considers that a council is not, or may not be meeting, the performance requirements, the Auditor General may carry out a special inspection. This inspection is to assess the extent	<b>Quarterly Performance Reporting:</b> The Council tracks audit and inspection recommendations through its quarterly monitoring cycle. <b>Corporate Improvement Board and Service Improvement Boards</b> have been

	<p>c) Corporate assessment (every 4 years) by WAO around council's likelihood to comply with improvement duties.</p>	<ul style="list-style-type: none"> <li>• extent to which well-being objectives being met</li> <li>• Whether well-being objectives set and steps taken in accordance with the SD principle.</li> </ul> <p>LA must respond stating accept or reject (based on good reason or alternative approach)</p> <p>Examinations by the Auditor General for Wales: Power to examine public bodies, to assess the extent to which a body has acted in accordance with the SD principle when:</p> <ul style="list-style-type: none"> <li>• Setting well-being objectives;</li> <li>• Taking steps to meet those well-being objectives.</li> </ul> <p>The AGW has to examine each public body at least once in a five-year period.</p>	<p>to which the council is meeting the performance requirements.</p> <p>Welsh Ministers can also request the Auditor General to consider whether a council is not, or may not be, meeting the performance requirements; and whether to carry out a special inspection.</p> <p>A council in receipt of a special inspection report by the Auditor General for Wales has a duty to respond to the recommendations.</p>	<p>established to oversee specific service improvement plans.</p>
<p>External Assessment</p>	<p>×</p>	<p>×</p>	<p>✓</p> <ul style="list-style-type: none"> <li>• <b>Duty to arrange a Panel Assessment of performance</b> - The Local Government and Elections (Wales) Bill requires a council to make arrangements for an independent panel, appointed by the council, to assess the extent to which the council is meeting the performance requirements –<b>a panel performance assessment.</b></li> <li>• Following the conclusion of a panel assessment, a panel must make a report.</li> <li>• It is the responsibility of the council, not the panel, to publish the panel report.</li> <li>• <b>Duty to respond to a panel performance assessment report</b> - The council must prepare a response to the panel performance assessment report and as soon as reasonably practicable after finalising the response, the council must publish the response.</li> </ul>	<p>Under current legislation, there is no duty to conduct external assessments, however, in 2018 and 2020 the council commissioned Sean Harriss to conduct an external assessment of the council's leadership, plans and capacity.</p>