

Explanatory Memorandum to the Local Election Survey (Wales) Regulations 2012

This Explanatory Memorandum has been prepared by the Local Government and Communities Department of the Welsh Government and is laid before the National Assembly for Wales in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Local Election Survey (Wales) Regulations 2012. I am satisfied that the benefits outweigh any costs.

Carl Sargeant

Minister for Local Government and Communities, one of the Welsh Ministers

4 March 2012

1. Description

- 1.1 The Local Election Survey (Wales) Regulations 2012 make provision for local authorities to conduct a survey of councillors and unsuccessful candidates in each ordinary general election to county and county borough councils and in each ordinary general election to community councils in a local authority's area.
- 1.2 The Regulations prescribe the questions that a local authority must ask and prescribes the manner in which the information collected must be collated.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None

3. Legislative background

- 3.1 Part 1 of the Local Government (Wales) Measure 2011 introduced a duty on principal councils to monitor the equality and diversity profile of candidates in ordinary elections to principal and town and community councils.
- 3.2 Section 1 (1) and (2) provide that a local authority must, in accordance with regulations, conduct a survey of councillors in its area and unsuccessful candidates for election to the council of a county or county borough and to a community or town council in the local authority's area.
- 3.3. Section 1 (3) (a) and (b) provide that the questions asked in the survey must be prescribed questions in any prescribed form or manner and the information must be collated in any prescribed form or manner.
- 3.4 Section 175 defines "prescribed" as prescribed in regulations made by the Welsh Ministers.
- 3.5 Section 1(4) sets out 11 fields of enquiry that questions in the survey may relate to and provides that questions are not limited to those fields. The fields are: *gender, sexual orientation, language, race, age, disability, religion or belief, health, education or qualification, employment and work as a councillor.*

- 3.6 Sections 1(5) and (6) provide that there is no duty on a councillor or unsuccessful candidate to provide any information. The local authority must enable respondents to provide information anonymously.
- 3.6 Section 2(1) provides that a local authority must complete its survey and provide the information to Welsh Ministers within six months of the ordinary election to which it relates.
- 3.7 Section 2 (5) provides that the Welsh Ministers may publish and share the information, subject to a restriction in section 2(6), which prohibits the information being published or shared in a form which identifies or is capable of identifying individual to which it relates. The information must be published within 12 months of the election to which it relates.

4. Purpose & intended effect of the legislation

- 4.1 Part 1 of the Local Government (Wales) Measure 2011 contains a number of provisions to strengthen local democracy and support and promote the elected members of local authorities, starting with the duty to conduct a survey.
- 4.2 The justification and evidence for this part of the Measure came principally from the report of the Councillor Commission Expert Panel Wales which was convened with the aim of making recommendations to the Welsh Government to encourage a more diverse range of people to consider standing for election to local authorities and to better support those that get elected to combine their public duties with other responsibilities.
- 4.3 For many years, concerns have been expressed that the membership of councils across Wales does not reflect the characteristics of the population as a whole. The report of the Councillor Commission Expert Panel Wales "*Are we being Served?*" found that the average age of members was just under 60 and the membership tended to be white, male and retired. The number of female councillors was estimated to be 24% of the total and the number of councillors from the black and ethnic minority communities was estimated to be less than 1% of the total. There is no data on the profile of community and town councillors.
- 4.4 The Expert Panel recommended a number of measures to encourage people from diverse backgrounds to stand for elections and to stay on as councillors. These included diversity monitoring of councillors and candidates; the training and development of serving councillors; flexible working for councillors; administrative support for councillors; and public accountability of councillors. Other sections in Chapter 1 of Part 1 and Part 2 of the Measure make provision for the training and development of councillors, flexible working, administrative support and public accountability.

- 4.6 The Welsh Government recognises the crucial role elected members play in local democracy and the importance of having elected members who are representative of the communities they serve and can understand the varying needs of the users of local services. Councils are more effective when the needs of all members of the local communities are considered in decisions made about the delivery of local services. The Welsh Government wishes to encourage a more diverse range of elected members to stand and become elected members.
- 4.7 A statutory duty to conduct a survey at regular intervals, the subject of these Regulations, will enable the compilation of a set of reliable data on the profile of candidates and councillors at local government elections in both principal councils and community and town councils. This will enable policy-makers to design initiatives to improve diversity in council chambers and assess their effectiveness.
- 4.8 These Regulations prescribe the questions that a local authority must ask when conducting the survey, and prescribe that an electronic spreadsheet must be used to collate the information. This will ensure that the survey is conducted in a uniform manner across Wales and the collated information is also uniformly presented.
- 4.9 The Schedule to the Regulations contains 23 questions in total: 21 questions are based on the 11 fields of enquiry set out in section 1 (4) of the Measure. Section 1 (4) of the Measure does not limit the prescribed questions to solely the 11 fields of enquiry set out in sub paragraph 4 (a) to (k) of section 1. Two questions do not relate to the specified fields of enquiry: “parental responsibility”, question 15 and “volunteering experience”, question 16 are permitted additional question to the list of question headings in section 1 (4).
- The first six questions relate to the “*work as a councillor*” field. The questions are designed to gather data on which council the respondent stood for election, previous experience in standing for elections and serving as councillors. The wording of these questions has been adapted from the surveys carried out by the Scottish Government¹ and the Local Government Association in England of candidates and councillors².
 - Questions seven, eight and nine relate to *gender*, *age* and *race*. The wording of seven replicates the question included in the Scottish Government Survey, the wording of eight arose from the consultation. The wording of nine replicates the questions in

¹ **Scottish National Survey of LG Candidates (questionnaire from p.66)**
<http://www.scotland.gov.uk/Resource/Doc/221835/0059630.pdf>

² **National Census of Local Authority Councillors 2010**
<http://www.lga.gov.uk/lga/core/page.do?pageId=15003600>

the Office National Statistics Census³, the National Survey of Wales⁴

- Question 10 relates to *belief*. The wording of this question is the same as the equivalent question included in the Office National Statistics Census and the National Survey of Wales.
- Question 11 relates to *sexual orientation*. The wording of this question is adapted from the equivalent question included in the Place Survey.⁵
- Questions 12, 13 and 14 relates to *employment status*. The wording of 12 and 13 is adapted from the British Household Panel Survey⁶ and the Scottish Government survey. Question 14 was suggested as a result of the consultation.
- Question 15 relates to parental responsibility. “Parental responsibility” is a permitted additional question to the list of question headings in section 1 (4) of the Measure. The wording of this question was suggested as a result of the consultation.
- Question 16 relates to volunteering experience. This is a permitted additional question to the list of question headings in section 1 (4) of the Measure. This wording has been slightly amended from the National Survey for Wales
- Question 17 relates to *education* and is slightly amended from equivalent question included in the Scottish Government Survey.
- Questions 18 to 21 relate to *health* and *disability* and the wording is as a result of the consultation.
- Questions 22 and 23 relate to *language* and replicate the equivalent questions included in the ONS Census.

Regulatory Impact Assessment (RIA)

5.1 Options for achieving the policy objectives in relation to the Regulations as discussed in Section 4 are:

Option 1 – Do nothing and not make the Regulations

³ **Census**

<http://www.ons.gov.uk/ons/guide-method/census/2011/the-2011-census/2011-census-questionnaire-content/index.html>

⁴ **National Survey for Wales
ONS Opinions Survey**

<http://wales.gov.uk/about/aboutresearch/social/ocsropage/pilotsurvey/qresurmat/?lang=en>

⁵ **Place Survey Question Bank**

<http://www.communities.gov.uk/publications/localgovernment/placesurveymanual0809>

⁶ **British Household Panel Survey**

http://www.iser.essex.ac.uk/bhps/documentation/pdf_versions/survey_docs/index.html

Option 2 – Make the Regulations

Option 1 – *Costs and benefits*

- 5.2 The duty on local authorities to conduct a survey cannot be fulfilled without the supporting Regulations since the Measure requires local authorities to conduct a survey in accordance with regulations made by Welsh Ministers. Not making regulations would mean that a survey would not occur and Welsh Government and other stakeholders would have no reliable data on the diversity of candidates at local government elections. It would be impossible to tell whether the policies being implemented to encourage a wider range of people to stand as candidates were having any impact.
- 5.3 There would be no financial costs to the Welsh Government or local authorities as a result of failing to make the Regulations.

Option 2 - *Costs and Benefits*

- 5.4 Legislation is considered to be the only means of ensuring that monitoring of candidates and councillors takes place regularly. Other organisations such as the Welsh Local Government Association and the Electoral Commission have conducted surveys into the profile of councillors and candidates in the past but there is no regular survey undertaken. For example no survey was undertaken in 2008, the year of the last local government elections. The provisions in the proposed Regulations will deliver wider and more regular data and will also chart the under representation in local government: the Expert Panel found that women, ethnic minorities, young people, disabled people, people in paid employment and non-professionals were all under-represented in council chambers across Wales.
- 5.5 Monitoring the diversity of those who stand as candidates for election to local government will give all stakeholders, over time, a solid evidence base on which to make judgement about their progress in reaching their objectives to widen participation in local democracy according to the extent and nature of the diversity within the electorate.
- 5.6 The progress of local authorities, in particular, will be open and transparent and raise awareness generally about the importance of diversity issues.
- 5.7 Introducing a regular survey is estimated to cost £35,000 per survey, funded by the Welsh Government and distributed among the 22 principal councils to undertake the survey of candidates at community and principal council elections. This cost would occur every fourth year, starting from the 2012-13 financial year. The Welsh Government's Local Government and Communities Department would also absorb within existing projected resources an administrative cost of some £2,500 in analysing and publishing the survey data.

6. Consultation

- 6.1 The Welsh Government issued an electronic public consultation on the draft Regulations. The consultation ran for 6 weeks between 20 December 2011 and 24 January 2012 and asked for views on the content of the draft Regulations and draft statutory guidance.
- 6.2 The details of the consultation were sent directly to:
- Association of Council Secretaries and Solicitors
 - Electoral Administrators in the 22 Welsh local authorities
 - The Electoral Commission
 - Equalities and Human Rights Commission
 - One Voice Wales
 - The four major Political Parties in Wales
 - Society of Local Authority Chief Executives
 - Wales Council for Voluntary Action
 - Wales Audit Office
 - Welsh Local Government Association
- 6.3 A total of 18 responses were received. A number of organisations offered valuable suggestions to improve the structure and content of the questions contained in the Schedule to the Regulations and suggested additional questions.

Competition Assessment

- 7.1 There are no market implications associated with the making of these Regulations. It has no impact on business, charities or the voluntary sector.