

Meeting of:	Cabinet
Date of Meeting:	Monday, 21 December 2020
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	Local Government & Elections Bill - Part 6 Performance & Governance of Principal Councils - Consultation Response
Purpose of Report:	To present Cabinet with an overview of the Part 6 Performance Arrangements associated with the Local Government & Elections Bill and seek endorsement for the Council's response to the Welsh Government consultation on the accompanying draft statutory guidance.
Report Owner:	Executive Leader and Cabinet Member for Performance and Resources
Responsible Officer:	Tom Bowring, Head of Policy & Business Transformation
Elected Member and Officer Consultation:	Managing Director Head of Regional Internal Audit Service Head of Legal & Democratic Services Head of Finance
Policy Framework:	This is a matter for Executive decision by Cabinet.
Executive Summary:	<ul style="list-style-type: none"> • This report provides Cabinet with an update on Part Six of the Local Government & Elections Bill which is currently being considered by the Senedd and will receive Royal Assent in early 2021. • Welsh Government is currently consulting on the statutory guidance (Appendix A) that describes how the Council will be required to demonstrate compliance with the duties contained in Part Six of the Bill. • The consultation closes 3 February 2021 and this report seeks Cabinet endorsement for the submission of the draft consultation response (Appendix B).

Recommendations

1. It is recommended that Cabinet note the contents of this report and appendices.
2. It is recommended that Cabinet endorse the draft consultation response (Appendix B) for submission to Welsh Government in principle and refer this report to Corporate Performance and Resources Scrutiny Committee for consideration with any comments to be referred back to Cabinet for consideration prior to the response being submitted.
3. It is recommended that Cabinet receive updates on the progression of the Local Government & Elections (Wales) Bill and progress to its implementation in due course as referenced in the previous report to Cabinet on this agenda.

Reasons for Recommendations

1. To provide Cabinet with an overview of the changes to the management of performance of principal councils that will be introduced by the Local Government and Elections (Wales) Bill.
2. To enable the Council to submit views on the guidance to accompany the performance provisions of the Bill by the deadline of 3 February 2021 and for the views of Corporate Performance and Resources Scrutiny Committee to be sought.
3. To enable Cabinet to receive timely updates on the implementation of the Bill.

1. Background

- 1.1 The Local Government and Elections (Wales) Bill provides for the establishment of a new and reformed legislative framework for local government elections, democracy, governance and performance. The Bill is progressing through the Senedd and it is anticipated will receive Royal Assent in early 2021.
- 1.2 Cabinet will note the contents of the update report as a previous agenda item at this meeting setting out an overview of the Bill's provisions.
- 1.3 Part Six of the Bill relates to changes to the performance and governance arrangements that will commence from April 2021. These changes will repeal the current legislative framework for performance management which are set out in the 2019 Local Government Measure. The final performance report from the Measure will be published by 31st October 2021.
- 1.4 Welsh Government is consulting on the statutory guidance to accompany this Part of the Bill. Appendix A provides the draft statutory guidance pertaining to Part Six, with Appendix B setting out the draft consultation response from the Council for consideration by Cabinet and submission by the deadline of 3 February 2021.

2. Key Issues for Consideration

2.1 The Council has been contributing to a working group chaired by the Welsh Local Government Association in collaboration with Welsh Government to co-produce the statutory guidance to accompany the changes to performance arrangements set out in Appendix A.

2.2 In summary, the Bill introduces a number of new duties on principal councils as described below.

Duty to keep performance under review

2.3 The Bill requires a council to keep under review the extent to which it is fulfilling the 'performance requirements' that is, the extent to which it is exercising its functions effectively, using its resources economically, efficiently and effectively; and has effective governance in place for securing the above.

Duty to consult on performance

2.4 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 local people; other persons carrying on a business in the council's area; the staff of the council; and every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 92)) by the council.

Duty to report on performance

2.5 A council must produce a self-assessment report 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.

Duty to arrange a panel assessment of performance

2.6 A council must arrange for a panel to undertake an assessment, at least once during the period between two consecutive ordinary elections of councillors to the council, of the extent to which the council is meeting its performance requirements.

Duty to respond to a panel performance assessment report

2.7 A council must prepare a response to each panel performance assessment report, setting out the extent to which it accepts the conclusions in the report, the extent to which it intends to follow any recommendation in the report, and any actions the council intends to take to increase the extent to which it is meeting the performance requirements.

2.8 The Bill also describes the duties and responsibilities of the Auditor General for Wales' in powers to carry out a special inspection (and the responses of principal councils and Welsh Government Ministers) and the powers for intervention by

Welsh Ministers where Ministers consider that it is likely that the council is not, meeting the performance requirements.

- 2.9** The consultation response (Appendix B) sets out the Council's views on statutory guidance that has been developed to support the five duties directly relating to this organisation as well as providing feedback on the way in which the duties of the Auditor General for Wales and Welsh Government Ministers' are explained and described.
- 2.10** The draft consultation response is broadly positive, welcoming the repeal of the Local Government Measure and the recognition of the synergies with the Wellbeing of Future Generations (Wales) Act (2015) (WBFGA), of which, this Council was an early adopter. The additional flexibilities that will be afforded by the Bill are also welcomed, enabling the Council to further streamline and integrate corporate performance management activity in line with the 2020-2025 Corporate Plan which sees the Council adopting a more integrated and holistic approach to achieving wellbeing.
- 2.11** In recent years, the process of self-assessment has been integrated with the duties introduced by the WBFGA, informing annual service plans and the recent introduction of an Annual Delivery Plan for the Council which sets out the actions that will be taken each year to deliver the commitments contained in the Corporate Plan. The outcome focused Corporate Plan and use of the five ways of working to demonstrate the achievement of wellbeing objectives is well embedded in the organisation and is used to shape the Council's strategic documents and actions.
- 2.12** The introduction of the Bill will bring an opportunity to enhance the self-assessment process. Consideration will be required as to how this process interfaces with the production of the Annual Governance Statement and the connections between economy, efficiency and effectiveness of our actions to achieving our wellbeing objectives as referenced in the guidance which draws linkages with CIPFA's Delivering Good Governance in Local Government'.
- 2.13** Additional consideration will also be required to reflect the role and nature of relationships within the organisation between senior staff and politicians in the context of delivering the Annual Delivery Plan. Building on the changes introduced with the Corporate Plan 2020-25, which sees a more integrated approach to the delivery of the Council's wellbeing objectives, there will be further opportunities to develop the role of Scrutiny Committees and the approach to scrutiny of performance broadly and on particular areas of the Council's activity. The Council's consultation response queries the particular emphasis on the change of the role and title of the Audit Committee to become the Governance and Audit Committee and its role in reviewing the draft self-assessment report, not to question the involvement of that Committee, but rather that it should be a part of consideration by all Scrutiny Committees, including the Governance and Audit Committee.

- 2.14** It is also drawn to the attention of Cabinet that there is a proposed requirement that one third of the membership of the Governance and Audit Committee shall be lay members and the Committee will also be chaired by a Lay member.
- 2.15** Work has commenced to develop a more strategic 'insight' function within the Council as an evidence base for decision making. This was demonstrated in the Community Impact and Economic Impact Assessments which accompanied the Council's Recovery Strategy. This approach, aligned with a regular schedule of consultation activity, will be required to meet the duties of the Bill and other obligations such as the forthcoming Socio-economic Duty and existing Equality Act. A regular, ongoing process of consultation and engagement across multiple areas of the organisation throughout the year involving the stakeholders documented in the guidance notes will inform the self-assessment findings as well as a consultation on the report itself. It is felt the former is more valuable in eliciting the views of stakeholders, rather than attempting to consult on a strategic document.
- 2.16** It is envisaged that the Council's self-assessment report will continue to reflect the duties under the WBFGA to produce an Annual Report and the new duties of the Bill. The guidance indicates that "self-assessment should be considered the start of the process, not an end in itself" and as such, this report will be used to inform the next year's Annual Delivery Plan, service plans and target setting processes. Through consultation and scrutiny, performance will continue to be monitored throughout the year, with any deficiencies identified and appropriate remedial actions put in place during the quarterly cycle of reporting.
- 2.17** The introduction of cyclical panel assessments will be a new aspect to the performance management arrangements in place within Council. It will be for the Cabinet to determine the timing of the panel assessment within the normal term of an electoral cycle, with the Bill requiring the panel's report to be published at least six months prior to the next ordinary election. To make maximum use of the findings of this assessment in a timely way it will be advantageous where possible for these to dovetail with the standard planning cycle for the Council. The guidance indicates the broad composition of the panel which is for the Council to ultimately determine within these parameters.
- 2.18** It is suggested in the Council's consultation response that it would be beneficial for these arrangements to be discussed collaboratively by officers and the WLGA as assessments begin to be arranged in order to develop some broad consistency in the approach and to reduce the potential for duplication in administrative arrangements. It is noted that the costs incurred in facilitating the panel assessment process and in officer time to co-ordinate and participate. These will be met from existing resources, however, will require careful consideration and planning and will have to be met from existing Council resources.

- 2.19** The consultation response also indicates that it would be useful if the guidance made explicit the process for responding to the performance assessment report – for example, by reporting this to the Council’s Cabinet following consideration by the Governance and Audit Committee.
- 2.20** The consultation response is broadly supportive of the way in which the duties of the Auditor General for Wales and Welsh Ministers are described. The Council will continue to work constructively with both Audit Wales and Welsh Government in developing approaches to oversight and review of the Council’s activities. It is welcomed that the approach to early involvement of Audit Wales and/or Welsh Government should the need arise will continue and that any interventions or support would be co-produced by the Council and others.
- 2.21** The consultation response also indicates the Council's support for the WLGA in continuing to support Local Authorities in improvement activities generally and specifically in the process of 'operationalising' arrangements to reduce the potential for duplication and to continue to encourage the sharing of skills, experience and transferrable practice.
- 2.22** Cabinet are recommended to consider the content of this report and appendices and endorse the consultation response for submission to Welsh Government in line with the deadline for responses of 3 February 2021 in principle, and refer the report to Corporate Performance and Resources Scrutiny Committee for consideration.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1** The Council's Corporate Plan is the key strategic planning document setting out the actions that will be taken and the ways of working that will contribute to the delivery of the national wellbeing goals.
- 3.2** The changes introduced by the Local Government & Elections Bill will impact on the way in which performance is monitored, reported and scrutinised and due consideration will continue to be given to meeting the requirements of the WBFGA and the new duties of the Bill.

4. Resources and Legal Considerations

Financial

- 4.1** There are no direct financial implications associated with this report. There will be costs incurred in the arrangement of peer review assessments and these will be met from existing resources.

- 4.2** The changes to performance arrangements will require consideration as to how value is achieved from the Council's expenditure in the delivery of corporate priorities and this will be further developed as the new arrangements are introduced.

Employment

- 4.3** There are no direct employment implications arising from this report. The performance management arrangements introduced by the Bill will continue to be the responsibility of all Council employees, supported by the Corporate Performance Team.

Legal (Including Equalities)

- 4.4** The Local Government & Elections Bill sets out a series of legal duties for the Council as described in the overarching report being considered by Cabinet on the same agenda.
- 4.5** The legal changes to performance arrangements are described in the statutory guidance (Appendix A) and involve the repeal of the Local Government Measure (2009) and the Council to comply with these via the performance reporting arrangements that will be developed upon introduction of the Bill's provisions.
- 4.6** The introduction of the new performance arrangements will reflect the Socio-economic Duty to be introduced from April 2021 and equalities considerations are reflected throughout the Corporate Plan. The Annual Report will continue to be consulted on with a range of stakeholders including the Equalities Consultative Forum.

5. Background Papers

[Vale of Glamorgan Corporate Plan, 2020-2025](#)

Draft statutory guidance:

Performance and governance of principal councils

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Summary

The Local Government and Elections (Wales) Bill provides for the establishment of a new and reformed legislative framework for local government elections, democracy, governance and performance.

This draft guidance sets out how principal councils should meet their duties contained in Part 6, Chapter 1, of the Bill which relates to the performance and governance of principal councils.

It is intended that the final statutory guidance will be issued to principal councils when Part 6 of the Bill is commenced. Following consultation and prior to commencement, a copy of the guidance will be issued to support councils to prepare for the introduction of the new regime.

A council should have regard to guidance issued by Welsh Ministers in relation to the exercise of its functions under Part 6, Chapter 1 of the Bill. This means that councils must take account of the guidance, and if they decide to depart from it, have clear and justifiable reasons for doing so.

The guidance is designed to support councils to understand and discharge their duties in relation to performance and governance, whilst recognising that councils will wish to and should be encouraged to develop their own approach in line with their wider statutory obligations, local circumstances, corporate structures, and best practice.

This draft guidance specifically addresses the following duties to be placed on principal councils:-

Duty to keep performance under review

The Bill requires a council to keep under review the extent to which it is fulfilling the 'performance requirements' that is, the extent to which it is:-

- exercising its functions effectively;
- using its resources economically, efficiently and effectively; and
- has effective governance in place for securing the above.

Duty to consult on performance

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:-

- a) local people;
- b) other persons carrying on a business in the council's area;
- c) the staff of the council; and
- d) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 92)) by the council.

Duty to report on performance

A council must produce a self-assessment report 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.

Duty to arrange a panel assessment of performance

A council must arrange for a panel to undertake an assessment, at least once during the period between two consecutive ordinary elections of councillors to the council, of the extent to which the council is meeting its performance requirements.

Duty to respond to a panel performance assessment report

A council must prepare a response to each panel performance assessment report, setting out the extent to which it accepts the conclusions in the report, the extent to which it intends to follow any recommendation in the report, and any actions the council intends to take to increase the extent to which it is meeting the performance requirements.

This guidance refers specifically to these duties on a council, and sets out the expectations on how a council will perform these duties.

There are other provisions within Part 6 of the Bill such as powers for the Auditor General for Wales to carry out special inspections of a council; powers for the Welsh Ministers to provide support and assistance to a council with a view to improving its performance; and powers for the Welsh Ministers to intervene in a council which is not, or may not be, meeting the performance requirements. These aspects of the Bill are also described in this guidance, with any duties placed on councils in these provisions explicitly stated.

The guidance is set out as follows:

Chapter 1 - describes the policy context within which the performance and governance duties are set and the purpose of the duties.

Chapter 2 - explains the duty to keep performance under review; the duty to consult local people and others on performance; and provides guidance on the duty to report on performance, specifically through self-assessment.

Chapter 3 - provides guidance on the duty to arrange, and respond to a panel performance assessment.

Chapter 4 - describes the Auditor General for Wales' power to carry out a special inspection; the duty of a council to respond to any recommendations for actions it should take; and the duty of Welsh Ministers to respond to any recommendations for actions they should take.

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 where Ministers consider that it is likely that the council is not, or that the council is not, meeting the performance requirements.

Chapter 1 - Policy context and purpose of performance regime set out in the Local Government and Elections (Wales) Bill

Policy context

- 1.1 Principal councils are democratically accountable for the performance of their services, including their governance arrangements. They are supported through external audit, inspection and regulatory bodies who have a key role in assuring the quality of our public services in Wales.
- 1.2 The Local Government and Elections (Wales) Bill replaces the current improvement duty for principal councils set out in the Local Government (Wales) Measure 2009. The new approach as set out in the Bill is designed to be a more streamlined, flexible, sector-led approach to performance, good governance and improvement. The intention is for councils to be proactive in considering how internal processes and procedures should change to enable more effective planning, delivery and decision-making to drive better outcomes.
- 1.3 The performance and governance provisions in the Bill are framed within the wider sustainable development duties of the Well-being of Future Generations (Wales) Act 2015, which sets out a legally binding common purpose for the public bodies subject to that Act to improve the social, economic, environmental and cultural well-being of Wales. It sets out seven well-being goals which these public bodies must work towards collectively and five ways of working to guide how public bodies should deliver.
- 1.4 The Well-being of Future Generations Act provides the context within which councils should be exercising their functions, using their resources and ensuring their governance is effective, with the aim of maximising their contribution to the well-being goals.
- 1.5 Additionally, the ethos of the performance and governance provisions within the Bill align to the Socio-economic Duty, which will come into force on 31 March 2021. This duty will require principal councils, when taking strategic decisions such as 'deciding priorities and setting objectives', to consider how their decisions might help to reduce the inequalities associated with socio-economic disadvantage - driving better outcomes on people's lives and experiences through better decision making and further contributing towards our shared goal of becoming "a more equal Wales".

Well-being goals as set out in the Well-being of Future Generations (Wales) Act 2015

Goal	Description of the goal
A prosperous Wales	An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the wealth generated through securing decent work
A resilient Wales	A nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for example climate change).
A healthier Wales	A society in which people’s physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood.
A more equal Wales	A society that enables people to fulfil their potential no matter what their background or circumstances (including their socio economic background and circumstances).
A Wales of cohesive communities	Attractive, viable, safe and well-connected communities.
A Wales of vibrant culture and thriving Welsh language	A society that promotes and protects culture, heritage and the Welsh language, and which encourages people to participate in the arts, and sports and recreation.
A globally responsible Wales	A nation which, when doing anything to improve the economic, social, environmental and cultural well-being of Wales, takes account of whether doing such a thing may make a positive contribution to global well-being.

Five ways of working



Long term

The importance of balancing short-term needs with the need to safeguard the ability to also meet long-term needs.



Prevention

How acting to prevent problems occurring or getting worse may help public bodies meet their objectives.



Integration

Considering how the public body's well-being objectives may impact upon each of the well-being goals, on their other objectives, or on the objectives of other public bodies.



Collaboration

Acting in collaboration with any other person (or different parts of the body itself) that could help the body to meet its well-being objectives.



Involvement

The importance of involving people with an interest in achieving the well-being goals, and ensuring that those people reflect the diversity of the area which the body serves.

Purpose of the performance and governance provisions

- 1.6 The purpose of the performance and governance provisions in the Bill is to support a culture in which councils actively seek and embrace challenge, whether presented from within the council, for example through scrutiny procedures, or externally. The provisions are designed to provide a framework which supports councils, through an ongoing process of review, to think about their performance and effectiveness now and for the future; to encourage more inquisitive organisations willing to challenge themselves to do more, to be more innovative and more ambitious in what they do.
- 1.7 The provisions reflect the principles that for any organisation to be effective it needs to understand its current position, it must be clear on where it wants to go, and have a robust plan as to how it will get there. A truly effective organisation is never satisfied by current standards, even if they are good or excellent, but driven to do more.
- 1.8 The provisions build reflection on performance and actions to improve into the system. This is not intended to be onerous or burdensome, but to ensure councils are reflecting on and ensuring long term sustainability to deliver effective services for their communities.
- 1.9 Improvement in this context is the council's ability to deliver against immediate priorities and remain capable to respond to the changing environment in which it

operates. It is about the council's ability to consider how its internal processes and people operate in order to make effective decisions for the long term, working with the communities they serve in all their diversity, and how it will go about improving these in order to make better decisions and drive better outcomes for all.

- 1.10 Councils should always be striving to do better, not just satisfying targets or minimum duties but exceeding expectations, ensuring they are achieving the right outcomes and delivering what people want. Sharing and learning from best practice, and aiming to be better (even if best in class) should be an implicit part of a council's approach.
- 1.11 For example, under the Housing (Wales) Act 2014, a local authority is required to provide support where a person is threatened with homelessness within 56 days. Whilst this is the legal minimum, councils, and partner agencies such as housing associations, should, in the delivery of their existing functions, have due regard to how these functions can be used to support the provision of adequate housing; aiming to intervene much earlier than the legislation requires.
- 1.12 Areas for improvement should be looked at honestly, and actively pursued to ensure problems are prevented or dealt with early before they become systemic. Such an approach should be an integral part of the system of how councils operate. For example, council executives should welcome and encourage scrutiny inquiries to make recommendations for system improvements, and Governance and Audit Committees will play a key role in the performance and governance regime. The aim is to support councils to build on existing strengths and to support them to achieve a more innovative, open, honest, transparent and ambitious sector, challenging itself and collectively driving up service delivery outcomes and standards across Wales.
- 1.13 Enabling and supporting cultural and organisational change within local government through the performance and governance provisions in the Local Government and Elections (Wales) Bill will help to ensure strong councils, capable of achieving their well-being objectives and maximising their contribution to the national well-being goals.

The wider regulatory environment

- 1.14 The performance and governance provisions contained in the Bill will align with audit, regulatory and partnership arrangements.
- 1.15 Partners' individual responsibilities in relation to the performance and governance regime are broadly outlined below. Some of these are statutory powers and duties, contained in the Local Government and Elections (Wales) Bill or other pieces of legislation, and some stem from non-statutory arrangements.

Principal councils are responsible for:

- Conducting robust self-assessments and reporting on the extent to which the council is meeting the performance requirements.
- Setting out any actions to increase the extent to which the council is meeting the performance requirements, including, for example, the role of scrutiny in challenging and driving the extent to which the performance requirements are being met.
- Commissioning panel performance assessments at least once during the period between two consecutive ordinary elections of councillors to the council.
- Seeking support / challenge from peers and partners where and when necessary, and consulting staff, local people and trades unions about the extent to which the council is meeting the performance requirements.

Welsh Local Government Association (WLGA) is responsible for:

- Supporting councils on a local, regional and national level.
- Providing early intelligence and sector-led support to address areas for improvement identified through, for example, self-assessment, panel performance assessment or audit, inspection and regulator reports.

Audit Wales¹ is responsible for:

- Co-ordinating their own work and that of other regulators.
- Auditing of accounts.
- Examining how public bodies manage and spend public money, including but not limited to their arrangements for securing value for money in the use of resources and making recommendations to improve the value for money of local government.
- Assessing the extent to which councils are acting in accordance with the sustainable development principle under the Well-being of Future Generations (Wales) Act 2015.
- Carrying out 'Special Inspections' as provided for in the Local Government and Elections (Wales) Bill.
- Making appropriate recommendations to principal councils and to the Welsh Ministers.

¹ Audit Wales is the trademark of two legal entities: the Auditor General for Wales and the Wales Audit Office. Each has its own particular powers and duties. The Auditor General audits and reports on Welsh public bodies. The Wales Audit Office provides staff and other resources for the Auditor General's work, and monitors and advises the Auditor General.

Care Inspectorate Wales (CIW) is responsible for:

- Encouraging improvement in the delivery of social services and social care.
- Regulation and inspection of social care services including review of local authority social services functions under the Regulation and Inspection of Social Care (Wales) Act 2016 and the Social Services and Wellbeing (Wales) Act 2014.
- Advising Ministers on the possible use of their powers of intervention and monitoring visits to local authorities as required and agreed by the Minister.
- Providing professional advice to Welsh Ministers.

Estyn is responsible for:

- Inspecting, evaluating and reporting on local authorities' performance in relation to their duties as described by sections 38 to 41 of the Education Act 1997, sections 75, 76, 123 and 127 of the Learning and Skills Act 2000 and sections 25, 26 and 51 of The Children Act 2004.
- Making appropriate recommendations to local authorities and to the Welsh Ministers to support improvement.

1.16 Local government, Welsh Government and auditors, inspectors, regulators and commissioners work together to drive improvement, share intelligence, raise cases of possible concern and agree approaches to support improvement. Building this shared understanding is key to ensuring a clear focus for consistent and sustained improvement.

1.17 Principal councils should use the findings of scrutiny committees, auditors, inspectors, regulators and commissioners on how a council is delivering its functions and governing itself to inform its self-assessment, and likewise the panels undertaking a performance assessment may also use this evidence to inform their recommendations.

1.18 However, it is important that self-assessment and panel performance assessment do not simply duplicate what has already been identified through scrutiny, audit, inspection and regulator reports. The focus should be on a shared understanding of what all of these sources collectively reveal and, most importantly, the action to be taken as a result. Self-assessments and panel performance assessments do not, in any way, substitute or replace the role of Auditors, Inspectors or Regulators.

1.19 Self-assessment and panel performance assessment of how the council is meeting the performance requirements should also be informed by, but not duplicate, other performance arrangements in specific service areas.

1.20 For example, the *Code of practice in relation to the performance and improvement of social services*² sets out the vision for social services in Wales and how improvements in services and for individuals will be supported, measured and sustained by local authorities. The self-assessment process set out in this guidance will not require councils to look again in detail at the social services function, but the evidence arising from the *Code of practice* will inform the broader strategic level understanding of how the council is operating as a whole, is using its resources and delivering for the people in its area. Similarly, reforms to evaluation, improvement and accountability arrangements for schools have highlighted the importance of robust and continuous self-evaluation for all tiers of the education system. For principal councils, this means evaluating the effectiveness and impact of their services to support schools, which can also be used to inform its wider self-assessment.

Support for improvement

- 1.21 Keeping under review the extent to which it is meeting the performance requirements is just one part of a council's improvement journey.
- 1.22 The self-assessment and panel performance assessment a council undertakes can inform when and how to engage with any and all improvement support available to increase the extent to which it is meeting its performance requirements.
- 1.23 Ultimately the ambition is to enable councils to identify and resolve issues before any formal, statutory support or intervention is required. However, the Bill does contain a power for the Auditor General for Wales to carry out a special inspection where there are concerns that a council is not, or may not be, meeting the performance requirements. The Bill also makes provision for the Welsh Ministers to provide support and, where necessary, intervene in councils facing significant problems.

² [Social Services and Well-being \(Wales\) Act 2014: Code of practice in relation to the performance and improvement of social services in Wales \(Welsh Government, 2020\)](#)

Chapter 2 - Duty to keep performance under review and report on performance through self-assessment

Introduction

- 2.1 This chapter of guidance is about the duty on a principal council to keep its performance under review and consult local people and others on the extent to which it is meeting the performance requirements.
- 2.2 It also addresses the provisions relating to self-assessment within the Local Government and Elections (Wales) Bill. This chapter of guidance should be read by a council to support the discharge of its duty to keep its performance under review and its duty to report on its performance through a self-assessment report. The guidance here reflects the minimum requirements for self-assessment, recognising that councils are best placed to build on this to develop the detail of their own approach.
- 2.3 The findings of the self-assessment should be used to inform and identify areas where improvement or change might be needed and where sector-led support might be valuable.

Duty of principal council to keep its performance under review

- 2.4 The Local Government and Elections (Wales) Bill requires each council to keep under review the extent to which it is fulfilling the ‘performance requirements’, that is the extent to which it is:-
- **exercising its functions effectively;**
 - **using its resources economically, efficiently and effectively;**
 - **has effective governance in place for securing the above.**
- 2.5 The duty to keep performance under review is intended to reflect existing substantive duties to which authorities are already subject (i.e. their “functions”). Councils operate within a statutory framework of legal duties and it is not the intention to reproduce these at length here. The performance requirements are rounded – looking at how effectively a council is operating, not only in terms of meeting individual objectives, but how it is delivering its functions, using its resources and governing itself.

Duty to report on performance through self-assessment

- 2.6 The mechanism for a council to keep its performance under review is self-assessment, with a duty to publish a report setting out the conclusions of the self-assessment once in respect of every financial year. Self-assessment will be complemented by a panel performance assessment once in an electoral cycle, providing an opportunity to seek external insights (other than from auditors, regulators or inspectors) on how the council is meeting the performance requirements.

Purpose of self-assessment

- 2.7 Self-assessment is a way of critically, and honestly, reviewing the current position in order to make decisions on how to secure improvement for the future. Self-assessment is more than stating what arrangements are in place; it is about considering how effective they are and how they can be improved. Self-assessment of how the council is meeting the performance requirements places ownership of performance and improvement firmly with principal councils.
- 2.8 Considering the extent to which the council is meeting the performance requirements is a corporate, organisational assessment rather than an assessment of individual services. For example, it should consider the role of leadership, and the effectiveness of the relationship between the political leadership and senior officers in the council in ensuring the council is able to respond to the changing environment in which it operates. It is about a council being self-aware, understanding whether it is delivering the right outcomes, and challenging itself to continuously improve how it performs as the custodian of the area and manages delivery of services.
- 2.9 Self-assessment can be achieved by using intelligence already held corporately in an insightful way, reflecting at a strategic level on how the council is operating, and what action is needed to ensure it can continue to provide effective services now and for the long term.

Approach to self-assessment

- 2.10 As indicated above, self-assessment ensures a council has ownership of its own performance and improvement. As such each individual council will wish to, and should be free to, determine its own approach to self-assessment, designed to fit local circumstances and corporate structures, and informed by best practice.
- 2.11 For some councils self-assessment will already form an integral part of ongoing strategic and corporate governance arrangements, and many (if not all) will have used self-assessment as part of operational management of individual services and at a corporate level.
- 2.12 At its simplest level, self-assessment of how the council is meeting the performance requirements is about asking the questions of: how well are we doing?; how do we know?; what and how can we do better? These questions should be asked in the context of the performance requirements.
- 2.13 Some key principles which a council should take into account when formulating its approach are:
- Self-assessment is not a fixed judgement. To be truly effective, embedding self-assessment throughout an organisation should be an

ongoing process, addressing issues as they are identified, responding in real time and effectively to challenges and opportunities.

- It is an opportunity for a meaningful process to contribute to strengthening local government and not an exercise in compliance.
- The self-assessment process should encourage honesty, objectivity and transparency about the council's performance and governance, including its key relationships between political leaders and officers and how these are managed.
- An effective approach would be owned and led at a strategic level, whilst involving members and officers at all levels of the organisation and a range of people across communities and partners.
- Self-assessment should be an evidence-based analysis, understanding what a range of quantitative and qualitative information at the council's disposal reveals about how it is exercising its functions, using its resources and governing itself.
- The self-assessment should be focused on outcomes, what has been achieved rather than the process and asking honest questions about the impact of the council's actions on people's lives and experiences.
- Self-assessment should not be a standalone process, but integrated as part of the council's corporate planning, performance and governance processes.

2.14 The self-assessment will necessarily draw on a range of internal and external sources, ensuring a broad evidence base to inform the actions the council will take to increase the extent to which it is meeting the performance requirements in future.

2.15 Some sources which could inform the self-assessment, and which will already be available to the council may include:-

- reports already produced by the council in response to statutory requirements, such as the annual report on progress on meeting the organisation's well-being objectives as required by the Well-being of Future Generations (Wales) Act 2015; statement of internal control required by the Accounts and Audit (Wales) Regulations 2014; annual equality reports; local authority social services annual reports etc;
- evidence from a range of inspection and regulatory sources, including reports from Estyn, Audit Wales, the Public Services Ombudsman for Wales and Care Inspectorate Wales;

- self-evaluations the council may already have undertaken in relation to specific service areas, or been involved with in relation to partnership working;
- findings of any assessment about the extent to which the council is meeting its well-being objectives, review undertaken, or advice published by the Future Generations Commissioner, and the Auditor General for Wales on how the council has acted in accordance with the sustainable development principle in setting and taking steps to achieve their well-being objectives;
- any inquiry, investigation, assessment undertaken, advice provided or recommendation by the Equality and Human Rights Commission in relation to strengthening action to tackle key inequalities;
- any reports of self-evaluation of the scrutiny function against the outcomes and characteristics for effective local government overview and scrutiny;
- performance management indicators (although the self-assessment will need to be broader than an assessment of quantitative performance indicators alone);
- staff surveys, and the outputs from any other engagement processes with staff such as trade union forums;
- compliments and complaints from both internal and external sources.

2.16 This list is not exhaustive, and councils will wish to determine for themselves what information will best inform the self-assessment and lead to evidence-based conclusions about how the council is meeting the performance requirements. It will be important for councils to consider carefully how to maximise the value of the evidence sources before them, asking questions about and interpreting the evidence to understand what it reveals and how to act upon it.

2.17 In considering the effectiveness of its governance arrangements, the council may also wish to have regard to *'Delivering Good Governance in Local Government'* produced by the Chartered Institute of Public Finance and Accountancy and SOLACE, as well as the accompanying guidance notes.

2.18 In reaching the conclusions of its self-assessment, the council must also take into account the views of the following about the extent to which the council met the performance requirements in the financial year to which the self-assessment report relates:-

- local people;
- other persons carrying on a business in the council's area;
- the staff of the council; and

- every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c.92)) by the council
- 2.19 The council can identify the cross section of staff, local people and businesses, and determine how they are consulted in the process – for example, the council may be satisfied it could be achieved through incorporating as part of a wider approach to engagement rather than as a standalone consultation, they may also wish to consider this as they take forward implementation of the requirements to produce a public participation strategy contained elsewhere in the Local Government and Elections (Wales) Bill. The key priority should be to ensure that the council involves the views of the above in reaching its conclusions of the extent to which it is meeting the performance requirements.
- 2.20 The council should gather and use intelligence to reflect the experience of, and impact on, people from different protected groups and those experiencing socio-economic disadvantage. The council may already hold relevant information as part of its Public Sector Equality Duty obligations, or the information it will use to demonstrate due regard under the forthcoming Socio-economic Duty.³
- 2.21 Whilst this is the minimum consultation in relation to how the council is performing required by the Local Government and Elections (Wales) Bill, the council may consult others as it determines will best support its own self-assessment. The council may also wish to consult partners, for example, community and town councils or other public bodies in the area to ensure a rounded view to inform its self-assessment. In considering how it is meeting the performance requirements, it would be expected an assessment of partnership working and collaboration would be undertaken as a key indicator of how a council is exercising its functions, using its resources and governing itself.

Applying the Well-being of Future Generations Act

- 2.22 The Well-being of Future Generations Act sets out a legally binding common purpose for the public bodies subject to that Act to improve the social, economic, environmental and cultural well-being of Wales. The Act sets out seven well-being goals⁴ which public bodies subject to the Act must work towards collectively:-
- A prosperous Wales
 - A resilient Wales
 - A more equal Wales
 - A healthier Wales

³ Councils should gather and use intelligence to reflect the experience of and impact on [people from different protected groups](#) and those experiencing [socio-economic disadvantage](#)

⁴ See page 8 for full definitions of the goals.

- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

2.23 Public bodies must meet their duty under the Well-being of Future Generations Act acting in accordance with the sustainable development principle, which means that they must act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

2.24 In order to show that they have acted in accordance with the sustainable development principle, a public body must take account of five ways of working:

- **Long term:** the importance of balancing short-term needs with the need to safeguard the ability to also meet long term needs.
- **Prevention:** how acting to prevent problems occurring or getting worse may help public bodies meet their objectives.
- **Integration:** considering how public bodies' well-being objectives may impact upon each of the well-being goals, on their other objectives, or on the objectives of other public bodies.
- **Collaboration:** acting in collaboration with any other person (or different parts of the body itself) that could help the body meet its well-being objectives.
- **Involvement:** the importance of involving people with an interest in achieving the well-being goals, and ensuring that those people reflect the diversity of the area which the body serves.

2.25 The Well-being of Future Generations Act provides the context within which a council should be exercising its functions, using its resources and ensuring its governance is effective, with the aim of maximising its contribution to the well-being goals. The Act sets the framework within which a council must consider its performance, in terms of service delivery, corporate capability and capacity to meet the needs of current users, without compromising the needs of future generations.

2.26 The statutory guidance⁵ on the Well-being of Future Generations Act contains a core set of activities common to the corporate governance of public bodies. These are:-

- Corporate planning
- Financial planning
- Workforce planning (people)
- Procurement
- Assets
- Risk management

⁵ [Well-being of Future Generations Act Guidance](#)

- Performance Management

2.27 Considering the seven corporate areas as a framework for the self-assessment, and applying the five ways of working to those areas, will support the council to ensure it is governing itself to maximise its contribution to the well-being goals and meet its well-being objectives.

Self-assessment report

2.28 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.

2.29 The self-assessment report must set out conclusions as to the extent to which the council met the performance requirements during that financial year, and any actions it will take, or has already taken, to increase the extent to which it will meet the performance requirements. The emphasis should be on understanding how the council is operating now, the likely demands it will face in the future, and how it can build sustainability. Beyond that, it is for the council to consider the most appropriate format for the report based on what would best fit local circumstances.

2.30 The intention is for the self-assessment report to be a learning document. It may simply be a summary of the learning which has emerged from the self-assessment, the sources that have informed the conclusions, and summary information to answer the key questions about how the council is meeting the performance requirements: how well are we doing; how do we know; and what and how can we do better.

2.31 Except in the case of the first self-assessment report, the report must also include a review of actions emerging from the previous year's report, with consideration on the progress made on those, and how they increased the extent to which the council met the performance requirements.

2.32 The council may wish to consider opportunities to integrate its self-assessment report with reports on other duties, for example it may publish its report on progress in meeting its well-being objectives as required by the Well-being of Future Generations (Wales) Act 2015 in the same document as the self-assessment. In considering opportunities to integrate self-assessment with other duties, the council will need to be satisfied however that all their statutory duties have been fully met.

Taking action on a self-assessment

2.33 Through the self-assessment the council will identify areas for action to increase the extent to which it is meeting the performance requirements, and put in place a plan to ensure this is undertaken. The self-assessment should be considered the start of the process, not an end in itself. The conclusions

may, for example, inform the corporate, well-being objectives or delivery plans, or scrutiny work plans as appropriate.

- 2.34 The council should be proactive in addressing the findings of the self-assessment. The self-assessment should inform considerations of how internal processes and procedures should change to support more effective planning, delivery and decision-making to drive better outcomes, and innovative ways to better deliver its functions.
- 2.35 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.
- 2.36 Where there are specific concerns arising from the self-assessment, the council can lead in identifying opportunities for self, and sector-led support or involving others as appropriate. Seeking such discussions early to actively respond is the mark of a forward thinking, open organisation intent on delivering for its communities.

Who should be involved in the self-assessment

- 2.37 The requirement to produce a self-assessment report is one for the full council or its executive (as a council may determine). As has already been covered in this guidance, councils will be required to involve a wide range of stakeholders and local people in its self-assessment. In addition, involving members from controlling and opposition groups, heads of service, the corporate performance function and employees at all levels in the self-assessment will help to embed the approach in the organisation's culture and build a rich picture to inform the assessment.
- 2.38 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.
- 2.39 The council may also consider how to involve partners such as the public services board, regional partnership board etc for their area.

Involving the council's governance and audit committee

- 2.40 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.
- 2.41 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.

Publication of self-assessment report

2.42 The self-assessment report must be published within four weeks of it being finalised in accordance with the council's agreed processes, and a copy should be made available to the council's governance and audit committee. The report should also be sent to:-

- The Auditor General for Wales
- Her Majesty's Chief Inspector of Education and Training in Wales
- The Welsh Ministers⁶

2.43 The council can, of course, share the report with any other person or organisation which the council so wishes.

⁶ This includes Care Inspectorate Wales

Chapter 3 - Duty to arrange, and respond to, a panel performance assessment.

Introduction

- 3.1 This chapter of guidance is about the requirements relating to panel performance assessment within the Local Government and Elections (Wales) Bill. The guidance here reflects the minimum requirements for panel performance assessment as set out in the Bill, recognising that councils will wish to develop the detail of their own approach.
- 3.2 The intention is for the duties in relation to panel performance assessment to come into force from the start of the next local government electoral cycle in May 2022.
- 3.3 The intention is that the performance and governance provisions in the Bill will be underpinned by a sector-led, co-ordinated approach to improvement and support. The findings and recommendations of the panel performance assessment provide an external perspective and should be used to inform and identify areas where sector-led support might be valuable. This will apply in the case of individual councils and should also inform the development and provision of any proposed improvement support nationally.
- 3.4 This chapter of guidance should be read by a principal council to support the discharge of its duties to arrange a panel performance assessment and to publish and respond to a panel performance assessment report. This chapter may also be read by panel members to guide them in carrying out a panel performance assessment. Panel members may also refer to the guidance on self-assessment to understand how councils are required to discharge their duties on self-assessment as this may usefully inform their approach to the panel assessment.

Duty of principal council to arrange panel performance assessment

- 3.5 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 – a panel performance assessment. The performance requirements are defined as the extent to which the council is:-
- exercising its functions effectively;
 - using its resources economically, efficiently and effectively; and
 - having effective governance in place for securing the above.
- 3.6 This guidance sets out the purpose of the panel assessment; proposes the stages involved in an assessment; covers matters relating to the timing of a panel assessment; describes minimum requirements and considerations when appointing a panel; and covers the arrangements for responding to a panel performance assessment report.

- 3.7 Councils may of course commission support similar to a panel performance assessment for a number of other purposes, such as peer reviews on specific services or on particular themes or issues. These are all part of the council's improvement journey, and can complement but not replace the corporate, organisational level statutory panel performance assessment required by the Local Government and Elections (Wales) Bill.

Purpose of panel performance assessment

- 3.8 A panel performance assessment is just one component of a sector-led approach to performance, governance and improvement. An effective panel performance assessment can inform the council's improvement journey, building on the annual self-assessment, supporting it to look to the future through a different lens. The panel assessment should provide different perspectives; some independent, objective external challenge; and an opportunity to test thinking with impartial expert peers.
- 3.9 The panel performance assessment will assess, as the council does through self-assessment, the extent to which the council is meeting the performance requirements. It is not about checklists, it is not a form of inspection, and it is not an audit. It is about supporting the council to achieve its aspirations through developing and deepening its understanding about how it is operating, and how it can ensure it is able to offer effective services for the long term.
- 3.10 The panel are not responsible for holding the council to account, but should offer an external view of how the council is operating. This does not replace auditors, inspectors, or regulators' assurance role. This is about supporting councils to understand how they can improve the extent to which they are meeting the performance requirements.
- 3.11 It is for the council to determine how to make the most effective use of the panel performance assessment, and ensure its findings are used alongside other sources in determining its approach to corporate performance, governance and improvement.
- 3.12 Panel performance assessment is part of a culture where councils are open to and embrace challenge, whether presented from within the authority or, in this case, externally. The assessment should be seen as challenging, but constructive, an effective and proportionate approach to continuously learning how to make the council stronger.
- 3.13 Research has shown the potential value to a council in seeking a peer perspective, such as that which a panel performance assessment will provide, at a corporate, organisational level.⁷ For example, it has been found that such a peer perspective can confirm the council's own understanding of what

⁷ see Downe, J., Bottrill, I. and Martin, S. (February 2017) *'Rising to the challenge: an independent evaluation of the LGA's corporate peer challenge programme'*. Cardiff Business School: Centre for Local & Regional Government Research.

is needed and add strength to the case for change, as well as supporting or encouraging both organisational and behaviour change.

Approach to panel performance assessment

- 3.14 Each individual council will wish to, and should be free to, determine its own approach to engaging with panel performance assessment (within the broad parameters set out by the Bill).
- 3.15 Although it will ultimately be for the council and the panel to determine, we would expect a panel performance assessment to encompass:-

Stage 1 - Preparation

This stage is council-led and should include:-

- **Scoping the requirements** of the panel performance assessment. The council may wish to work with partners to do this, and consider any particular challenges that have been highlighted in their self-assessment or in recent audit, inspection or regulator reports. This will help to identify the skills and expertise required from the panel to maximise the impact of the assessment.
- **Identifying and commissioning a panel** to undertake the assessment.
- **Establishing the terms of reference** for the panel performance assessment and, once in place, agreeing the terms of reference with the chair of the panel. This will also provide an opportunity to discuss expectations and approach to the assessment.
- **Sharing relevant information** with the panel to set the context for the assessment.
- **Making practical arrangements** as required by the panel to enable them to effectively conduct the assessment.

Stage 2 – Review

This stage is largely led by the panel and should include:-

- **Desk-based review by the panel** to inform their initial thinking and decisions on the areas they wish to focus on during the site visit.
- **Discussions between the panel** and elected members, officers and other stakeholders about areas within the scope of the assessment.⁸
- **Verbal presentation of main findings by the panel.**

⁸ Panels should gather and use intelligence to reflect the experience of and impact on [people from different protected groups](#) and those experiencing [socio-economic disadvantage](#).

Stage 3 - Follow up

This stage should include:-

- The panel sending their **final report** to the council.
- The council **considering its response** to the panel assessment, including the **actions it intends to take following the learning** from the assessment.
- The council **involving its governance and audit committee** and considering any recommendations the committee makes on its response to the panel performance assessment.

Timing

- 3.16 The duty to arrange a panel performance assessment at least once during an electoral cycle means an assessment should take place in the period between ordinary elections of councillors to the council. A council may choose to commission more than one panel assessment in an electoral cycle, but it is not a requirement of the legislation.
- 3.17 It is for the council to choose the time during the electoral cycle when panel performance assessment is likely to be of most value to the council. The council should consider how the panel performance assessment can be best timed to align with other aspects of its corporate governance approach and other service specific inspections or assessments. The council may also wish to reflect on the timing of any reviews by the Future Generations Commissioner and examinations by the Auditor General for Wales, so that maximum value is achieved from the panel performance assessment. The council may wish to seek advice from inspectorates, regulators or Audit Wales on this point.
- 3.18 The only requirement on timing is that arrangements must enable the council to publish a panel performance assessment report at least six months before the date of the next ordinary election. Councils will wish to consider timing in relation to the code of recommended practice on local authority publicity, and not leave it too late in the cycle to enable a panel assessment to be commissioned and concluded.
- 3.19 Councils could, in theory, commission a panel performance assessment near the start of an electoral cycle and the next assessment near the end of the next electoral cycle. This could mean a gap of nine years between panel performance assessments. Whilst the approach is possible it is not encouraged, and could call into question how a council is effectively exercising its functions in relation to its performance and governance.

Preparation in advance of assessment

- 3.20 A council should not feel it has to 'prove' anything to the panel and as such preparation in advance of a panel assessment should not be overly onerous.

However, it is recognised a panel performance assessment will require some administrative resource to support the panel with practical arrangements, such as arranging meetings and focus groups, and appropriate facilities for the panel to use.

- 3.21 The panel will also wish to see key documents as part of their assessment which will require officer time to collate, but it is not envisaged this will involve the preparation of any new reports, as there should already be a range of information (including the self-assessment report) available.

Appointing a panel

- 3.22 The council is responsible for identifying panel assessors, commissioning the panel to undertake the assessment, and meeting any associated costs.
- 3.23 Selection of panel members will be key to ensuring an effective and meaningful, assessment. The council should ensure the panel has a range of practical experience, knowledge and perspectives, has integrity, objectivity and assurance that its findings will be trusted by the council. The council should also consider the importance of diversity when appointing the panel.
- 3.24 To ensure independence, panel members must have sufficient detachment from the council to reach impartial, objective conclusions about how the council is meeting the performance requirements. For example no one who is, or has recently been, a member or officer of an authority to be assessed should be considered for appointment to the panel. A panel member should not feel in any way conflicted in offering an assessment of how the council is meeting the performance requirements.
- 3.25 The panel may be drawn from across the local government sector, the wider public sector, third sector and private sector. Panel assessors can also have experience of Wales or further afield. Whilst it is important that a proportion of the panel have a good understanding of the complexity of working in a political environment and the impact that this can have on organisational culture and priorities, those with experience of other sectors and working with local government will be able to offer valuable insights.
- 3.26 To be most effective, the panel should be peer-led and have a mix of experienced senior officers, councillors and others who work with local government who can command the confidence of the council and ensure councils get the most appropriate challenge, support and constructive recommendations.
- 3.27 It would be expected that any assessment panel commissioned under the council's duties contained in the Local Government and Elections (Wales) Bill should include as a minimum:-
- An independent panel chair – not currently serving in an official or political capacity within local government

- A peer from the wider public, private or voluntary sectors
- A serving local government senior officer, likely to be equivalent to chief executive or director
- A senior elected member

3.28 The council may choose to appoint other additional members of the panel as they see fit, for example officers at other levels, more partner representatives or other external experts. The council may also wish to assign an officer to work with the panel for the duration of the assessment, to provide administrative support and co-ordinate activity across the authority.

The panel's role in carrying out a panel performance assessment

3.29 The panel, acting jointly, is required to assess the extent to which the council is meeting the performance requirements, that is, the extent to which it is:-

- exercising its functions effectively;
- using its resources economically, efficiently and effectively;
- has effective governance in place for securing the above.

3.30 In this way the panel is building on, and complementing, the self-assessments already undertaken by the council. The panel may find it helpful to refer to the guidance on self-assessment to guide their approach to undertaking the panel assessment. The panel's focus should be on looking at the current situation, and over a sufficient previous period to get a meaningful picture of the position in the council and any trends. The panel will be considering how capable the council is to respond to the changing environment in which it operates, and may be guided in its work by using the ways of working set out in the Well-being of Future Generations Act:-

- **Long term:** the importance of balancing short-term needs with the need to safeguard the ability to also meet long term needs.
- **Prevention:** how acting to prevent problems occurring or getting worse may help public bodies meet their objectives.
- **Integration:** considering how public bodies' well-being objectives may impact upon each of the well-being goals, on their other objectives, or on the objectives of other public bodies.
- **Collaboration:** acting in collaboration with any other person (or different parts of the body itself) that could help the body meet its well-being objectives.
- **Involvement:** the importance of involving people with an interest in achieving the well-being goals, and ensuring that those people reflect the diversity of the area which the body serves.

3.31 The panel may also find it helpful to consider the activities common to the corporate governance of public bodies as set out in the statutory guidance on

the Well-being of Future Generations (Wales) Act 2015⁹:-

- Corporate planning
- Financial planning
- Workforce planning (people)
- Procurement
- Assets
- Risk management
- Performance Management

3.32 Using this as a framework should guide the panel in understanding whether the council is governing itself effectively in order to maximise its contribution to the well-being goals¹⁰:-

- A prosperous Wales
- A resilient Wales
- A more equal Wales
- A healthier Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

3.33 This is a corporate, organisational assessment, designed to consider the extent to which the council is meeting the performance requirements and its capability to deliver effective outcomes. The panel should not be seeking to undertake deep dives or in-depth service reviews, although a panel may draw on the findings of other peer reviews or in-depth service reviews in reaching their conclusions. The panel should not be looking to audit / check the council's own self-assessments, although the approach a council takes to self-assessment may inform a panel's view on the effectiveness of its governance arrangements.

3.34 In carrying out a panel performance assessment in respect of a council, a panel must consult the following about the extent to which the council is meeting the performance requirements:

- local people;
- other persons carrying on a business in the council's area;
- the staff of the council;
- and every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c.92) by the council.

3.35 While this is the minimum required by the legislation, the panel may choose to consult or involve others as it determines relevant to its assessment of how

⁹ [Well-being of Future Generations Act Guidance](#)

¹⁰ See page 8 for full definitions of the goals.

the council is meeting the performance requirements.¹¹ The panel may, for example, seek to consult other partners involved in collaborative working with the council.

- 3.36 It is for the panel to consider how it might wish to consult in order to effectively contribute to the panel assessment process, for example utilising existing engagement mechanisms, web-based surveys, questionnaires etc. It is for the council to make the necessary arrangements to facilitate the consultation.
- 3.37 The panel will also utilise a range of other internal and external sources, ensuring a broad evidence base to inform conclusions on the extent to which the council is meeting the performance requirements and recommendations on how to improve. Suggestions of sources which could inform the assessment are included in the guidance to councils on conducting self-assessments.
- 3.38 It is envisaged an assessment could take place during a two week period, with the panel 'onsite' at the council for approximately four - five days in order to gain a thorough understanding of the working practices / arrangements. An additional week is likely to be required for the Chair to liaise with the council before the assessment and draft the assessment report following the assessment.
- 3.39 The assessment should include the following key steps for the panel, although it will be for the panel to determine and agree its approach:-
- A scoping meeting
 - Desk based research
 - Meetings with political leaders, senior officers; and discussion groups, including with staff and partners, local people, unions and representatives of local businesses.
 - Analysis of findings and agreement to conclusions
 - A meeting to present key findings
 - Preparation of the panel's report to the council setting out their conclusions.

Panel assessment report

- 3.40 Following the conclusion of a panel assessment, a panel must make a report setting out:-
- its conclusions as to the extent to which the council is meeting the performance requirements;
 - any actions the panel recommends that the council could take in order to increase the extent to which it meets the performance requirements.

¹¹ Panels should gather and use intelligence to reflect the experience of and impact on [people from different protected groups](#) and those experiencing [socio-economic disadvantage](#)

- 3.41 It is for the panel to determine the form and content of this report, although it would be expected that it would reflect the key principles of openness and transparency, and accessibility for the public and all councillors. The report must be the sole judgements and recommendations of the panel acting together.
- 3.42 The panel chair should discuss their conclusions and recommendations with the council leader and chief executive, and any others the council wish to involve (for example leaders of the opposition and political groups), to ensure that the richness of the learning from the assessment is properly conveyed.
- 3.43 The panel must send the report as soon as is reasonably practicable after it has been prepared to:-
- The council
 - The Auditor General for Wales
 - Her Majesty's Chief Inspector of Education and Training in Wales
 - The Welsh Ministers¹²

Publication of panel assessment report

3.44 It is the responsibility of the council, not the panel, to publish the panel report. As soon as reasonably practicable after receiving the report from the panel, the council must:-

- make the report available to the council's governance and audit committee; and
- publish the report.

Responding to the panel assessment report

- 3.45 The council must prepare a response to the panel performance assessment report. In its response, the council is required to state:-
- the extent to which it accepts the conclusions in the report;
 - the extent to which the council intends to follow any recommendations contained in the report; and
 - any actions it proposes to take to increase the extent to which it meets the performance requirements.
- 3.46 The conclusions and recommendations from the assessment should be used to guide the council in identifying actions it will take to increase the extent to which it is meeting the performance requirements. The report should highlight areas where self and sector-led support might be valuable. It may also reiterate something that the council is already aware of and add weight to the case for change, and / or indicate where it would be beneficial to involve others as appropriate.

¹² This includes Care Inspectorate Wales

- 3.47 In responding, a council should apply the Well-being of Future Generations (Wales) Act 2015 and formulate its response according to the five ways of working. This should apply to both *what* the council intends to do and *how* it intends to do it. Involving others in formulating its response would be the mark of a forward thinking council.
- 3.48 A council should also reflect on a panel performance assessment when undertaking its next self-assessment, to see whether the learning from the panel assessment has been put into action.

Involving the governance and audit committee

- 3.49 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.
- 3.50 If the council does not make a change recommended by the governance and audit committee, it must set out in the final response the recommendation and the reasons why it did not make the change.

Publication of the response to the panel assessment report

- 3.51 As soon as reasonably practicable after finalising the response, the council must publish the response and send the response to:
- The members of the panel
 - The Auditor General for Wales
 - Her Majesty's Chief Inspector of Education and Training in Wales
 - The Welsh Ministers¹³
- 3.52 The response to a panel assessment report must be published at least four months before the next ordinary election of councillors to the council is due to take place.

¹³ This includes Care Inspectorate Wales

Chapter 4 - Special inspections by the Auditor General for Wales

Introduction

4.1 Over and above the system of self-assessment, panel performance assessment and reporting, the performance and governance provisions in the Local Government and Elections (Wales) Bill provide for a special inspection of a principal council to be carried out by the Auditor General for Wales. This chapter describes powers for special inspections of councils, sets out how a decision to undertake a special inspection is taken, and describes the duties of councils and the Welsh Ministers to respond to special inspection reports.

Power to carry out a special inspection

4.2 The purpose of a special inspection is to support a council in meeting, or increasing the extent to which it is meeting, the performance requirements.

4.3 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 to which the council is meeting the performance requirements, that is, the extent to which it is:-

- exercising its functions effectively;
- using its resources economically, efficiently and effectively;
- has effective governance in place for securing the above.

4.4 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.

4.5 The Auditor General must consult the Welsh Ministers before determining whether to carry out a special inspection of a council, unless the Welsh Ministers made the request as outlined above.

4.6 The Auditor General must also give notice in writing to the council of the intention to carry out a special inspection specifying:-

- the reasons for considering the council is not or may not be meeting the performance requirements; and
- the matters the Auditor General intends to inspect (although the Auditor General is not restricted to inspecting only the matters specified in the notice).

4.7 Following a special inspection, the Auditor General must make a report setting out:-

- conclusions as to the extent to which the council is meeting the performance requirements; and
- any actions it is recommended the council or Welsh Ministers take to increase the extent to which the council meets the performance

requirements and/or improve the effectiveness of local government for the area.

- 4.8 The Auditor General must, as soon as reasonably practicable, publish the report and send the report to:-
- the principal council to which it relates;
 - Her Majesty's Chief Inspector of Education and Training in Wales;
 - The Welsh Ministers¹⁴
- 4.9 A council in receipt of a special inspection report must make the report available to its governance and audit committee as soon as reasonably practicable.
- 4.10 If the report deals with the administration of housing benefit by the council, the Auditor General may send the report to the Secretary of State.

Duty to respond to Auditor General's recommendations – principal council

- 4.11 A council in receipt of a special inspection report by the Auditor General for Wales has a duty to respond to the recommendations.
- 4.12 The response must state what action, if any, the council intends to take in response to the recommendations. The council must make a draft of the response available to its governance and audit committee, which must review the draft response and may make recommendations for changes to the draft. If the council does not make a change recommended by the governance and audit committee, the council must set out in the response both the recommendation and the reasons why it did not make the change.
- 4.13 The response must be sent to the Auditor General within 30 days of the council receiving the report, unless the Auditor General specifies a longer period in writing.
- 4.14 The council must, as soon as reasonably practicable after sending the response to the Auditor General, publish the response and send it to:-
- Her Majesty's Chief Inspector of Education and Training in Wales;
 - The Welsh Ministers¹⁵

Duty to respond to Auditor General's recommendations – Welsh Ministers

- 4.15 If a special inspection report made by the Auditor General contains recommendations for action to be taken by the Welsh Ministers, the Welsh Ministers must prepare a response to the recommendations.
- 4.16 The Welsh Ministers' must publish their response as soon as reasonably practicable and send it to:-

¹⁴ This includes Care Inspectorate Wales

¹⁵ This includes Care Inspectorate Wales

- The Auditor General;
- The principal council to which the Auditor General's report relates; and
- Her Majesty's Chief Inspector of Education and Training in Wales.

Chapter 5 – Support and assistance with improving performance, and intervention by Welsh Ministers

Introduction

- 5.1 The Local Government and Elections (Wales) Bill makes provision for Welsh Ministers to provide support and assistance to councils, and where necessary to intervene where a council is facing significant problems.
- 5.2 This chapter describes powers for Welsh Ministers to provide statutory support and assistance, and is distinct from any informal sector-led support available to councils. Self-assessment and panel performance assessment should assist councils in identifying issues early, access sector-led support to address issues, and avoid more formal statutory support.
- 5.3 This chapter also describes powers for statutory intervention by Welsh Ministers to increase the extent to which a council is meeting the performance requirements. Statutory intervention in a council is an action of last resort. Welsh Ministers will endeavour to work with a council and other partners to offer support to allow councils to deal with issues in an appropriate and timely manner to ensure they do not become critical or crisis issues.
- 5.4 The purpose of the support and intervention powers is to secure good governance and the delivery of effective local government, not to effect substantive change to the underlying functions of a council.

Support and assistance by the Welsh Ministers

- 5.5 Welsh Ministers are able to provide support to a council to address difficulties they are facing in meeting the performance requirements. This support will be bespoke and designed for the specific issues or circumstances causing concern. In this way the support and assistance would be tailored to best meet the specific needs of the council.
- 5.6 A council may ask Welsh Ministers to consider providing support and assistance and such a request would be the mark of a forward thinking, open organisation intent on delivering for its communities.
- 5.7 Welsh Ministers can also provide support and assistance in the absence of a request from a council, in order to increase the extent to which a council meets the performance requirements.
- 5.8 The Welsh Ministers must consult the council about the support and assistance they intend to provide.
- 5.9 Welsh Ministers can direct a council to provide support and assistance to another council if considered appropriate to increase the extent to which the council receiving support meets the performance requirements.

5.10 Before making a direction both councils would be consulted and all the circumstances would be taken into consideration.

Powers of the Welsh Ministers to intervene in a principal council

5.11 Welsh Ministers may direct a council to take specific actions and may also direct that a function of a council be performed by the Welsh Ministers or their nominee.

5.12 The Bill includes conditions on when and how Welsh Ministers can give an intervention. These state that Welsh Ministers must:-

- have provided or attempted to provide support and assistance to the council;
- have consulted such persons as they consider appropriate; and
- have notified the relevant council that they intend to give the direction.

5.13 However, if Welsh Ministers consider there is an urgent need to give a direction these conditions would not apply.

5.14 Welsh Ministers would approach each situation on its own merits when determining whether statutory support or statutory intervention is necessary, taking account of a full range of evidence.

5.15 The Welsh Ministers may direct a council to co-operate with the Welsh Ministers, or with another council it directs to give support and assistance. The supported council must give access to its premises, documents, other information and facilities and assistance for the purposes of providing support and assistance (unless prohibited from doing so by any enactment or rule of law).

5.16 The Welsh Ministers may direct a council to take a specified step, and/or may direct that a function be performed by the Welsh Ministers or their nominee.

Consultation questions

We are inviting views on the draft statutory guidance and have identified eight consultation questions below. If you wish to respond please complete the online consultation response form or write to or email the addresses on page 2 of this document.

Responses to the consultation may be made public on the internet or in a separate report. If you would prefer your response to be kept confidential please indicate this by ticking the relevant box on the response form or clearly in your written response.

Q1	<p>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?</p> <p>If not, why not?</p>
<p>Answer 1</p> <p>The Council welcomes the repeal of the Local Government Measure and the recognition of the synergies with the Wellbeing of Future Generations (Wales) Act (2015) (WBFGA), of which, this Council was an early adopter.</p> <p>The additional flexibilities that will be afforded by the Bill are also welcomed, enabling the Council to further streamline and integrate corporate performance management activity in line with the 2020-2025 Corporate Plan which sees the Council adopting a more integrated and holistic approach to achieving wellbeing.</p> <p>It is considered clear what is expected and that this is understood.</p>	

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Q2	<p>Does Chapter 2 of the guidance set out the performance requirements and the duty to keep performance under review sufficiently clearly?</p> <p>If not, what would you add or change?</p>
Q3	<p>Does Chapter 2 of the guidance explain how a council could meet the requirement to undertake self-assessment in order to fulfil its duties?</p> <p>If not, what would you add or change?</p>
<p>Answer 2&3</p> <p>In recent years, the process of self-assessment has been integrated with the duties introduced by the WBFGA, informing annual service plans and the recent introduction of an Annual Delivery Plan for the Council which sets out the actions that will be taken each year to deliver the commitments contained in the Corporate Plan. The outcome focused Corporate Plan and use of the five ways of working to demonstrate the achievement of wellbeing objectives is well embedded in the organisation and is used to shape the Council's strategic documents and actions.</p> <p>The introduction of the Bill will bring an opportunity to enhance the self-assessment process. Consideration will be required as to how this process interfaces with the production of the Annual Governance Statement and the connections between economy, efficiency and effectiveness of our actions to achieving our wellbeing objectives as referenced in the guidance which draws linkages with CIPFA's Delivering Good Governance in Local Government'.</p> <p>Additional consideration will also be required to reflect the role and nature of relationships within the organisation between senior staff and politicians in the context of delivering the Annual Delivery Plan. Building on the changes introduced with the Corporate Plan 2020-25, which sees a more integrated approach to the delivery of the Council's wellbeing objectives, there will be further opportunities to develop the role of Scrutiny Committees and the approach to scrutiny of performance broadly and on particular areas of the Council's activity. It is important that all scrutiny committees are involved in this process, not only the Governance & Audit Committee and the Council would like to make this clear in the consultation response. The Governance & Audit Committee's involvement will be useful as part of the process. The proposal to have one third of the Committee membership including the Chair being Lay members will also produce a different dynamic which will need careful management and it is not clear if this will be a positive development.</p> <p>Work has commenced to develop a more strategic 'insight' function within the Council as an evidence base for decision making. This was demonstrated in the Community Impact and Economic Impact Assessments which accompanied the Council's Recovery</p>	

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Strategy. This approach, aligned with a regular schedule of consultation activity, will be required to meet the duties of the Bill and other obligations such as the forthcoming Socio-economic Duty and existing Equality Act. A regular, on-going process of consultation and engagement across multiple areas of the organisation throughout the year involving the stakeholders documented in the guidance notes will inform the self-assessment findings as well as a consultation on the report itself. It is felt the former is more valuable in eliciting the views of stakeholders, rather than attempting to consult on a strategic document.

It is envisaged that the Council's self-assessment report will continue to reflect the duties under the WBFGA to produce an Annual Report and the new duties of the Bill. The guidance indicates that "self-assessment should be considered the start of the process, not an end in itself" and as such, this report will be used to inform the next year's Annual Delivery Plan, service plans and target setting processes. Through consultation and scrutiny, performance will continue to be monitored throughout the year, with any deficiencies identified and appropriate remedial actions put in place during the quarterly cycle of reporting.

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?

The introduction of cyclical panel assessments will be a new aspect to the performance management arrangements in place within Council. It will be for the Cabinet to determine the timing of the panel assessment within the normal term of an electoral cycle, with the Bill requiring the panel's report to be published at least six months prior to the next ordinary election. To make maximum use of the findings of this assessment in a timely way it will be advantageous where possible for these to dovetail with the standard planning cycle for the Council. The guidance indicates the broad composition of the panel which is for the Council to ultimately determine within these parameters. It would be beneficial for these arrangements to be discussed collaboratively by officers and the WLGA as assessments begin to be arranged in order to develop some broad consistency in the approach and to reduce the potential for duplication in administrative arrangements. It is noted that the costs incurred in facilitating the panel assessment process are to be met from existing Council resources.

It would be useful if the guidance made explicit the process for responding to the performance assessment report – for example, by reporting this to the Council's Cabinet following consideration by the Governance & Audit Committee.

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<p>Q5</p>	<p>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.</p> <p>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.</p> <p>Do Chapters 4 and 5 sufficiently describe and explain these powers?</p> <p>If not, what would you add or change?</p>
<p>The powers described and explained in Chapters four and five are clear. The Council will continue to work constructively with both Audit Wales and Welsh Government in developing approaches to oversight and review of the Council’s activities. It is welcomed that the approach to early involvement of Audit Wales and/or Welsh Government should the need arise will continue and that any interventions or support would be co-produced by the Council and others.</p>	
<p>Q6</p>	<p>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.</p> <p>What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?</p>
<p>It is considered that the guidance would not have any negative impact on opportunities for people to use Welsh, nor on the Welsh language being treated less favourably than English. Any consultation and engagement work undertaken will continue to be delivered bilingually and public documents are made available in both Welsh and English. The work of the panel could be facilitated in both languages should this be required.</p>	
<p>Q7</p>	<p>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.</p>
<p>It may be useful to draw specifically on the Welsh Language Commissioner’s Good Practice Advice Document in relation to policy making. However, the requirement to demonstrate contribution to the national well-being goals, including A Wales of vibrant culture and thriving Welsh language is an intrinsic part of the Council’s Corporate Plan and would be reflected in the self-assessment report.</p>	

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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 use the consultation response form to express your views.
<p>The development of the statutory guidance in conjunction with WLGA, Local Authorities and Welsh Government has been a useful process. The Council would be supportive of the WLGA continuing to provide support Local Authorities in improvement activities generally and specifically in the process of 'operationalising' arrangements to reduce the potential for duplication and to continue to encourage the sharing of skills, experience and transferrable practice.</p>	