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Consultation Document

Access to Information on Community and Town Councils

Date of issue: **12 May 2014**

Action required: Responses by **4 August 2014**

Overview

This consultation paper is seeking views on the draft statutory guidance regarding access to information on Community and Town Councils.

How to respond

Please submit your comments on any aspect of the Guidance by **4 August 2014** in any of the following ways:

Via the response form on our website:

<http://wales.gov.uk/consultations/forms/access-to-information/?lang=en>

E-mail: LGDTMailbox@wales.gsi.gov.uk

Or post to the address in the contact details below.

Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

Useful References:

<http://www.legislation.gov.uk/anaw/2013/4/section/55/enacted>

Contact details

For further information:

Scrutiny, Democracy and Participation Team
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

e-mail: LGDTMailbox@wales.gsi.gov.uk

Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full.

Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government.

This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

WELSH GOVERNMENT GUIDANCE

ACCESS TO INFORMATION ON COMMUNITY AND TOWN COUNCILS

Status and Application

This guidance applies to Community and Town Councils in Wales. It is issued, in part under section 55(1) of the Local Government (Democracy) (Wales) Act 2013. When carrying out their duties under section 55(1) of this Act Community and Town Councils have a statutory duty to have regard to this guidance.

This guidance also applies to the provision made in the Act concerning public notices, council meetings and proceedings and registers of members' interests.

Background

1. The Local Government (Democracy) (Wales) Act 2013, referred to as “the Act” throughout this guidance, gained Royal Assent on 30 July 2013. Its primary purpose was to reform the constitution and functions of what is now known as the Local Democracy and Boundary Commission. The Act, however, introduced various other provisions connected with local government.

2. Sections 55 to 58 of the Act are concerned with access to information, and most particularly, access to information about Community Councils. (For the purposes of this guidance, any reference to a Community Council or Councils includes any Community, Town or City Council which serves a community or grouped community and was established in accord with Part II of the Local Government Act 1972 (“the 1972 Act”).

3. In summary, the Act requires Community Councils to have websites; to publish notices and papers electronically; and to publish their register of members' interests electronically (those maintained under section 81 of the Local Government Act 2000).

What the legislation requires

4. Section 55 of The Act requires Community Councils to publish electronically information about how to contact it and, if different, its clerk. The information which must be available electronically includes a telephone number, a postal address and an email address.

5. In addition, the council must publish electronically information about each of its members, including a list of the councils members, each member's name, their contact details, political affiliation (if any) and any office held or committee they belong to within the council. If the community concerned is divided into community wards, the ward each member represents must be shown.

6. The Community Council must also publish electronically the minutes of its meetings and, so far as reasonably practicable, documents referred to at those meetings. They must also publish their annual audited accounts electronically. In both these cases, councils are only required to publish material produced after the date when section 55 came into force.

Community Councils are not required to publish any information they are prevented from disclosing by any other legislation.

7. In carrying out its duties under Section 55, Community Councils must have regard to this guidance.

8. Under existing legislation Community Councils are required to post any public notices in one or more conspicuous places within their area, and anywhere else which appears to be desirable for giving publicity to the notice (section 232 of the 1972 Act). The Act places an additional requirement on Community Councils to publish any such notice electronically.

9. Existing legislation requires Community Councils to give notice of forthcoming council meetings three clear days before the meeting is to be held by displaying a notice in a conspicuous place in the community. The Act places an additional requirement for such notices to be published electronically. This must be done three clear days before the meeting. There is also a requirement to publish electronically, so far as is reasonably practicable, any documents relating to the business to be transacted at the meeting. This requirement does not apply where the documents

relate to business which, in the opinion of the council, is likely to be transacted in private or where the disclosure of such documents would be contrary to any other legislation.

10. Under Schedule 12 to the Act a group of local government electors may call a community meeting. Where a meeting has been convened those convening the meeting must give notice to the Community Council (if there is no Community Council established in the area notice must be given to the principal council in whose area the community lies). Under the new provisions, notice may be given to the Community Council either in writing or electronically. Where it is given in electronic form the notice must comply with the technical requirements set by the principal council.

11. Community Councils and Principal Councils must provide a facility for notices to be given electronically and public notice of the community meeting must be published electronically as well as through traditional mediums.

12. Finally, the Act contains new requirements relating to the registration of members' interest. Section 81 of the Local Government Act 2000 requires a Community Council (as well as other authorities) to maintain a register of members' financial and other interests as are specified in the model code of conduct. Up until now, the register only needed to be available for inspection at council offices. Provision made by the Act requires it also needs to be published and available to access electronically.

Guidance

13. It is a decision for each Community Council to take as to whether they will operate their own, independent website, or whether they decide to link up with other Community Councils in their area, or the principal council, or some other body which is happy to host their site. It is, however, a requirement there is a regularly updated website providing the public with the ability to access the information described above.

14. The Welsh Government intends to improve public engagement with local government generally and Community Councils in particular. We feel it necessary for all local authorities to be contactable electronically and have published information on the Internet. Local residents would expect to be able to have this facility in this era.

15. The majority of Community Councils in Wales already have a presence online and publish information electronically. Community Councils are urged to seek assistance from One Voice Wales, their Principal Council or other reliable sources if they need it to develop their web presence.

16. Under section 55, the Council must publish electronically its telephone number, postal address and e-mail address on the website. The information must also be available for the Council's clerk if it is different to the Council's contact details, although a generic e-mail address which a member, perhaps the Chair, to the council, could also use, would be advantageous. In some cases, the Community Council will have its own, or a share of, offices and the telephone number, postal address and e-mail address for these premises would be appropriate. Councils will be expected, however, to have arrangements to ensure messages are regularly retrieved and responded to.

17. It is not obligatory for individual members to have e-mail addresses. In a Principal Council this would be expected because the Council itself can usually provide e-mail addresses on the council's site. However, the members' names must be listed and details of how they may be contacted must be available online. Some councils will wish to place photographs of each member but this is a decision for them.

18. The Act requires the political affiliation of the members of the council is published. Some Community Councils choose not to do this at present. However, the public has a right to know the political persuasions of those in elected office or whether they are independent of any group. It is unacceptable for a member to hide their political affiliation if they have been elected on a political ticket, unless they have clearly breached with their political group since election.

19. If the Community Council is divided into community wards, the ward the member represents must be published. If they hold office of some sort in the council or belong to a council committee of some sort, it must be published on the site.

20. It is not necessary to delineate those members who were elected and those subsequently co-opted to fill vacancies. Co-opted members are full members of the council.

21. Paragraphs 4 to 12 above describe the documents which need to be posted on the website. Councils should develop procedures for keeping their site in good order, with past documents archived for a reasonable period, but easily accessible from the front page.

22. The Act provisions should be viewed as outlining the minimum requirements. Many councils will want to place far more information than this on their webpages and are encouraged to do so. Councils will need to have regard to the Code of Recommended Practice for Local Authority Publicity when considering the appropriateness of what they may wish to publish.

Questions

1. Do you agree that the draft Guidance is in keeping with the provisions of the Local Government Democracy (Wales) Act 2013?

2. Are you content with the proposed draft guidance for access to information on Town and Community Councils ?

3. Are there any issues not mentioned which you would like the Welsh Government to take into account?

4. Should you have any related issues which we have not specifically addressed, please let us know via the online response form