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Llywodraeth Cymru
Welsh Government

Welsh Government Consultation Document

Consultation on the draft Local Elections (Principal Areas) (Wales) Rules 2021 and draft Local Elections (Communities) (Wales) Rules 2021

Date of issue: 2 August 2021

Action required: Responses by 24 September 2021

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview

Views are being sought on the draft Rules which would govern the conduct of elections to county and county borough councils and community and town councils in Wales.

How to respond

Submit your response by midnight on the 24th September 2021 in any of the following ways:

- A response form accompanies this document. You may download, complete and email to the elections mailbox (address below)
- Download, complete form and post to

Local Government Democracy Division
Welsh Government
Cathays Park
Cardiff
CF103NQ

Further information and related documents

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

Contact details

For further information please contact :

Elections Team Mailbox
Etholiadau.Elections@gov.wales

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yma hefyd ar gael
yn Gymraeg / This
document is also
available in
Welsh

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, 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. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail:

Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk/>

- **Context (where are we now)**

The Local Elections (Principal Areas) (England and Wales) Rules 2006 (“the 2006 Rules”) govern the conduct of elections to county and county borough councils in Wales. Similarly, the Local Elections (Parishes and Communities) (England and Wales) Rules 2006 (“the Communities Rules”) govern the conduct of elections to community and town councils in Wales.

Both sets of Rules are being remade in preparation for the local elections in Wales in 2022 and are the subject of this consultation. Copies of the new draft Rules are (along with their respective draft Explanatory Memorandums at Annexes A to D).

Both sets of Rules set out the rules that would apply to the conduct of a standalone election to a principal or community council (see Schedule 1 in the respective set) and those which would apply when the poll at the council election is taken together or “combined” with the poll at another election (see Schedule 2 in the respective set). Most of the Rules are the same between the two Schedules, however there are some differences to reflect the fact that there are two elections taking place.

Please note that whilst the draft Rules do not make specific provision about local government elections when combined with Senedd elections, Schedule 4 to the National Assembly for Wales (Representation of the People) Order 2007 will continue to apply (as modified) to such combinations.

This document sets the context, consultation questions and how to respond. It should be read alongside the Explanatory Memorandums and the draft Rules themselves which contain much of the detail of what is and is not changing. The titles for the proposed new Rules are as follows:

- The Local Elections (Principal Areas) (Wales) Rules 2021
- The Local Elections (Communities) (Wales) Rules 2021

What is not changing?

The draft Rules and accompanying documentation are large documents and readers will wish to be aware the majority of the Rules and associated processes will remain the same as for previous local elections. We have highlighted what has changed in the sections below and in the Explanatory Memorandum to bring these to your attention.

What is changing?

The Local Government and Elections (Wales) Act 2021

Ahead of the 2022 local government elections, it is intended that both sets of Rules will be updated as a consequence of the changes made in the Local Government and Elections (Wales) Act 2021 and to give effect to policies set out in the 2017 consultation on Electoral Reform in Local Government in Wales. Proposals include:

- new and amended processes around the translation and accessibility of documents;

- changes to accommodate the extension of the franchise for local election to 16/17 year olds and qualifying foreign citizens;
- a new right for a candidate at a principal council election only to submit an electronic personal statement. This does not apply to community and town councils;
- changes that allow candidates the option of not publishing their home address; and
- changes which require candidates to declare any political party affiliations.

There will also be significant changes to provide for voting by the Single Transferable Vote (STV), to be used if a principal council chooses to adopt this electoral system in multi-member wards. This will be the subject of a separate and later consultation. The amending rules for STV will not be made until after the local government ordinary elections in May 2022.

Modernisation of language used to make the Rules

In keeping with the principles set out in the Legislation (Wales) Act 2019, the draft Rules consolidate and re-state existing law; are updated to make them more accessible, and use clearer language. They are also Wales specific. Whilst the language used to make the Rules has been intentionally modernised, the vast majority of the requirements and processes remain unchanged. We would be grateful if responses to the consultation could highlight in their response any areas where the modernisation of the language has unintentionally changed processes.

Rules which apply to local elections in Wales only

The existing 2006 Rules and Communities Rules were made on an England and Wales basis. This means, that while the 2006 Rules made provision for Wales, large parts of the 2006 Rules do not apply to the form of local government in Wales. The new *Local Elections (Principal Areas) (Wales) Rules 2021*, and *Local Elections (Communities) (Wales) Rules 2021* would reflect practice for Welsh local elections only.

Prescribed Electoral Forms

Some electoral forms prescribed by the relevant Rules will reflect some of the changes introduced through the Local Government and Elections (Wales) Act 2021 and other Ministerial commitments. These forms will be shared separately for discussion at two consultation events to be planned for late summer 2021.

Financial Implications

A Regulatory Impact Assessment will be prepared to accompany the Explanatory Memorandum when it is laid in the Senedd for consideration by Members of the Senedd. These draft Rules make provision for candidates to draft and supply the principal council with an optional personal statement in support of their election campaign. The principal council is then required to publish the personal statement on the local authority website. Questions have been included below regarding estimated costs for some of the new processes and in particular we would welcome comments on the anticipated costs to local authorities of this new Rule.

Consultation Response Form

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

Consultation Questions

Availability and submission of nomination papers online (Principal and Community Rules)

1. Do you agree that nomination papers should also be made available online for persons to download?
2. Do you agree that a facility should be provided to enable completed, signed and attested nomination papers to be submitted online?
3. How could the requirements for a candidate to sign their nomination paper and a witness to attest that signature be fulfilled if the nomination paper is submitted online?

N.b draft Rules 3(5), 4(2), 4(3) and 5(2) in Schedule 1 to the draft Principal rules includes italicised text in square brackets. The equivalent draft rules in the draft Communities Rules and in both Schedules 2 are also italicised. The use of italics is to highlight a new policy proposal which has emerged since the Welsh Government consulted on Electoral Reforms in local government in Wales in July 2017. We are consulting on this new proposal via the above consultation questions.

Nominations (Principals and Communities)

4. Do you agree with a candidate self-nominating, subject to the candidate signing the nomination paper and that signature being attested by a single witness, instead of (i) in the case of a principal council election, the nomination paper being subscribed by a proposer, a seconder and by eight other assenters; and (ii) in the case of a community council election, the nomination paper being subscribed by a proposer and a seconder?

The changes mean that the candidate, at a principal council election or a community council election, would no longer submit a separate consent to nomination form.

If you disagree with these proposals please explain why.

5. Do you agree that the additional options for candidates in providing commonly used forenames and surnames (including these being used in a different order) are sufficient to cover all cases in which it is reasonable to allow candidates to provide commonly used names?

Descriptions (Principals and Communities)

6. Do you agree with the inclusion of the new options for candidates in terms of descriptions they may include relating to a registered political party, including the addition of descriptors “Wales”, “Welsh”, “Cymru” or “Cymreig” where these are not already part of a registered description for the party in question. Do you think there are other options that should be covered?

The rules about descriptions which may be used by candidates at community elections are being brought in line with those at a principal council election. Effectively, this means that if a candidate at a community council election is not standing for a registered political party, the only options available to them are to describe themselves as “independent” or to have no description whatsoever. Do you agree with this change?

7. Do you agree with this change?

Statements of party membership (Principals and Communities)

8. Rule 5 introduces a new requirement for candidates to submit a statement of party membership and makes it an offence to knowingly withhold information about party membership or include something which is incorrect. Does this address the concern about candidates not declaring their membership of a registered political party?

Home Address forms (Principals and Communities)

9. Do you agree with the inclusion of a home address form, allowing candidates to request that their home address is not made public, as is already the case for other elections, including Senedd elections?

Personal Statements (Principals only)

10. Do you agree with the options and requirements about candidate’s personal statements? Should anything else be included?

Nomination in more than one electoral ward and more than one electoral area (Principals and Communities)

The existing rules allow a candidate at a principal council election to be nominated for more than one electoral ward at the same principal council election

and for a candidate at a community council election to be nominated for more than one electoral area at the same community council election. In both cases the candidate must withdraw from all but one electoral ward or area before the close of nominations.

11. Do you agree that we should keep the existing arrangement that a candidate may be nominated in more than one electoral ward (principal council) or electoral area (community council) but must withdraw from all but one ward or area (respectively) before the close of nominations?

Alternatively, should the rules require that a candidate must submit a nomination for no more than one electoral ward and no more than one electoral area at the same election?

Inspection of nomination forms and home address forms (Principals and Communities)

12. If nomination forms and home address forms are submitted electronically, how should these be made available for inspection in accordance with the respective rules?

Use of school rooms and public rooms (Principals and Communities)

13. Are there any schools in Wales to which grants are made out of money provided by the UK Parliament? (see Rule 27(1)(b) in the Principal Rules and 26(1)(b) in the Communities Rules).

Issue of poll cards at a community council by-election (Communities only)

Where a community council election is not held in combination with another election, official poll cards are issued only if the community council in question submits a request to the returning officer before 4pm on the 19th day before the day of election for poll cards to be issued. N.B. nevertheless, the returning officer must still issue an official poll card to any elector in that community who is registered anonymously.

The Welsh Government considers there would be benefits from requiring poll cards to be issued in all circumstances in terms of increasing voter awareness of the election, but we propose not to change the rule as yet, mindful of the possible cost implications for community councils.

14. Do you agree with this view? What would be the implications (good and bad) of requiring poll cards to be issued in all circumstances for community council elections?

Removal of formula for appointing counting agents (Principals and Communities)

We have simplified the rule about the appointment of counting agents by removing the formula whereby the number counting agents allowed to a candidate must not be less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates. The Welsh Government considers that it should be for the Returning Officer to consider the practicalities of the circumstances and the venue. The requirement that the number of counting agents must be the same for each candidate is retained.

15. Do you agree with the change removing the formula for appointing counting agents?

Changes to rules to reflect content of existing prescribed forms (Principals and Communities)

New drafting has been included in certain rules simply to make the wording of the rule consistent with requirements which hitherto have been included only in the related prescribed form. It is not really appropriate for these matters to be apparent only from the forms. The proposed changes do not alter the existing requirements, but will clarify matters by inserting specific references in the relevant rule:

- that in some cases a registration officer may dispense with the need for a signature on the postal voting statement for certain postal voters (see for example Principal Rules 29(3), 55(8)(a) (Sch 1) and 59(3)(a));
- where an elector has an anonymous entry on the register, the poll card must always be sent or delivered in an envelope or other form of covering so as not to disclose that the elector has an anonymous entry (see, for example Principal Rule 32(6)(b))
- to make clear that an elector with an anonymous entry on the register will be given a ballot paper in the polling station only if they are able to show their official poll card to the presiding officer (see for example, Principal Rule 43(3)(a)).

16. Do you agree that the changes are appropriate and the drafting makes the rules clearer and consistent with the related forms?

Companions of a voter with a disability or unable to read: relatives (Principals and Communities)

17. Do you agree that the list of relatives who may act as the companion assisting a voter is expanded to include a “grandparent” and a “grandchild” of the voter?

Modernisation of language and lay-out (Principals and Communities throughout)

18. The language used in the rules and the lay-out has been modernised with a view to making the required actions and procedures clearer and more accessible to officers, candidates and other readers. Has the clarity been improved? Has anything been left out which needs to be included?

Prescribed forms (Principals and Communities)

The existing Conduct Rules each include an Appendix with 15 prescribed forms. We consider that in many cases the requirements for the required procedure are sufficiently clearly expressed in the relevant rule so we propose to prescribe the following forms only: the nomination paper, the front and back of the ballot paper (including the directions as to printing the ballot paper), the form of the postal voting statement and the directions for the guidance for voters. We would not continue to prescribe the following forms: the corresponding number lists, the official poll cards, the certificates of employment and the declarations by a companion of a voter with disabilities. We will review the relevant rules to ensure the requirements about the contents are fully set out in the rule in question.

19. Do you agree with this change?

Community rules only – Introductory Rule 5 (signatures for request for election to fill a casual vacancy)

Introductory Rule 5 states that in the event of a casual vacancy on a community council, if 10 local government electors for the community / community ward in question submit a request to the relevant returning officer for an election (“a by-election”), a by-election must take place, subject to certain other requirements set out in introductory Rule 5.

The Welsh Government understands that some Returning Officers consider an email setting out the names of the 10 electors is sufficient to meet the request requirement. We do not share this view; the Welsh Government interprets the intention of the rule is that such a request should be *signed* by each of the 10 electors (whether submitted manually or electronically). We are not clear how many Returning Officers share the view that an email is sufficient, so we have not yet changed the rule, but if clarification is needed we shall do so to ensure it is clear that a request is indeed endorsed by the persons whose names support the request.

We have no proposals as yet to change introductory Rule 5 to make the calling of a by-election automatic.

20. Do you agree with the Welsh Government’s interpretation of the current rule? If so, is amendment needed to allow the request to be submitted electronically and to provide assurance to the returning officer?

Emergency Proxys for reasons of COVID

For the Senedd election in May 2021 and any local by-elections taking place up to November 2021, a further reason for making an application to vote by an emergency proxy was introduced. Electors who were not able to vote themselves because they were isolating for reasons of COVID or following Government advice were allowed to appoint an emergency proxy up to 5:00pm on the day of the election. We are giving consideration to whether the public health situation would indicate this provision should be extended further to allow emergency proxy for the reasons set out above for the 2021 local elections and any by-elections up to November 2022.

21. We would be grateful for views of how the process of applying and administering an emergency proxy of this sort may be improved.

22. We would like to know your views on the effects that the draft Local Elections (Principal Areas) (Wales) Rules 2021 and the draft Local Elections (Communities) (Wales) Rules 2021 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. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

23. Please also explain how you believe the draft Local Elections (Principal Areas) (Wales) Rules 2021 and the draft Local Elections (Communities) (Wales) Rules 2021 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 no adverse effects on opportunities for people to use the Welsh language and on treating Welsh language no less favourably than the English language.

24. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

